IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 204

JAMES EDWARD CRAMPTON,

Petitioner,

—v.—

THE STATE OF OHIO,

Respondent.

ON WRIT OF CERTIORARI TO
THE SUPREME COURT OF OHIO

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

March 2, 1967—Indictment for murder in the first degree returned by Grand Jury this day filed.

May 29, 1967—Defendant, James Edward Crampton, in Court with counsel, John Callahan and Gerald Lubitsky. Court continued to inquire into the present sanity of insanity of the defendant. Counsel made certain statements. Defendant's Exhibit A admitted into evidence by consent. The Court finds upon the evidence and the law that the defendant is presently sane. Whereupon, the defendant, James Edward Crampton, filed with the court a written plea of not guilty and a written plea of not guilty by reason of insanity to the charge made in the indictment. It is ordered by the Court that the defendant be committed to the Lima State Hospital for observation for a period not to exceed one (1) month in accordance with Section 2945.40 R.C.

June 30, 1967—Psychiatric report filed. Cause continued for further proceedings according to law.

July 18, 1967—Defendant, James Edward Crampton, was in open court with his counsel, John J. Callahan and Gerald Lubitsky. Assistant Prosecutor Resnick was present. The report from Lima State Hospital reported that the defendant would be considered sane. Whereupon, defendant requested no further hearing be had on the report of Lima State Hospital. Defendant's counsel filed a motion to take deposition of the examining doctor at Lima State Hospital and the motion was granted. The cause was set for trial by jury on October 23, 1967 at 9:00 A.M. It was further ordered that on September 15, 1967 at 10:30 A.M. in open court, with defendant present, that the Clerk draw from the jury wheel according to law 75 ballots and issue to the Sheriff of Lucas County a venire for the persons whose names are so drawn to appear on October 23, 1967 at 9:00 A.M. to serve as jurors in the trial of this cause.

October 23, 1967—Defendant, James Edward Crampton, was in court with counsel, John Callahan and Gerald Lubitsky. Assistant Prosecutors Melvin Resnick and Alice Robie were present on behalf of the State of Ohio.

Stenographer was ordered. Empaneling of jury was begun. At 4:30 P.M. under proper instruction of the court, night recess was had and the court adjourned to 9:00 A.M. on October 24, 1967.

October 24, 1967—Empaneling of jury was resumed and the jury and alternate juror were sworn. Under proper instruction of the court, the jury went to view the premises. Whereupon night recess was had and the court adjourned to 9:00 A.M. on October 25, 1967.

October 25, 1967—Trial was begun and at 4:30 P.M., under proper caution from the court, the trial was recessed to October 26, 1967 at 9:00 A.M.

October 26, 1967—The trial was resumed and at 4:30 P.M., under proper caution from the court, trial was recessed to October 27, 1967 at 9:00 A.M.

October 27, 1967—The trial was resumed and at 12:00 Noon, under proper instruction of the court, trial was recessed to October 30, 1967 at 9:00 A.M.

October 30, 1967—Trial was concluded and the case was submitted to the jury at 2:00 P.M. At 6:15 P.M., the jury, in open court, in the presence of defendant and his counsel, returned a verdict finding defendant guilty of murder in the first degree as charged in the indictment, with no recommendation of mercy.

November 2, 1967—Motion for a new trial filed.

November 15, 1967—Defendant, James Edward Crampton, in court with counsel, John Callahan and Gerald Lubitsky. Assistant Prosecutor Melvin Resnick present on behalf of the State of Ohio. Stenographer ordered. Motion for a new trial heard and overruled. Whereupon, the court informed said defendant that the jury trying his case had returned a verdict finding him guilty of murder in the first degree with no recommendation of mercy, for violation of Section 2901.01, R.C., as defendant then present well knew. Whereupon, the court inquired of the defendant if he had anything to say as to why judgment and sentence should not be pronounced. Defendant made certain statements. Defendant did not show sufficient cause as to why his sentence should not

be pronounced. It is the sentence of the court that the jury having withheld a recommendation of mercy, defendant James Edward Crampton is sentenced to death in the electric chair in accordance with the law. The date of execution of the sentence is set for March 13, 1968. It is further ordered that within 30 days from November 15, 1967, the Sheriff of Lucas County shall convey defendant James Edward Crampton in a private and secure manner to the Ohio Penitentiary, where he shall be received by the warden, and safely kept there until the 13th day of March, 1968, when the death penalty will be executed in accordance with Section 2949.22 R.C., for violation of Section 2901.01 R.C., as charged in the indictment. * * * The court thereupon informed the defendant as to his rights to appeal and inquired of the defendant if he was satisfied with counsel, John Callahan and Gerald Lubitsky, and defendant replied that he was. It is ordered that attorney John Callahan and Gerald Lubitsky are hereby appointed by the court to perfect an appeal for defendant James Edward Crampton.

December 11, 1967—Notice of appeal to the Sixth District Court of Appeals of Ohio. Said appeal is on questions of law.

May 29, 1968—Finding from the record that all assignments of error are not well taken or are non-prejudicial, judgment of the Common Pleas Court of Lucas County, Ohio, affirmed at defendant-appellant's costs and cause remanded to said Court for execution of sentence.

June 5, 1968—Application for reconsideration filed by defendant.

July 3, 1968—Finding that Witherspoon v. Illinois, 36 Law Week 4504 (391 U.S. 510) involves a statute and facts dissimilar from the statute of Ohio, R.C. Section 2945.25 (C), and from the facts in this case and is, therefore, inapplicable, motion for reconsideration denied.

August 13, 1968—Notice of appeal to Supreme Court of Ohio filed.

June 11, 1969—Judgment and opinion of Supreme Court of Ohio affirming judgment of Sixth District Court of Appeals.

INDICTMENT RETURNED BY LUCAS COUNTY GRAND JURY

Filed March 2, 1967

The jurors of the Grand Jury of the State of Ohio, within and for Lucas County, Ohio, on their oaths, in the name and by the authority of the State of Ohio, did find and present that James Edward Crampton, alias James Bryer, alias Edsel Fritz Moore, on or about the 17th day of January, 1967, in Lucas County, Ohio, did purposely and of deliberate and premeditated malice, kill and murder Wilma Jean Crampton, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

HARRY FRIBERG
Prosecuting Attorney

DEFENDANT'S PLEA TO THE INDICTMENT

Filed May 29, 1967

IN THE COURT OF COMMON PLEAS
OF LUCAS COUNTY, OHIO

Case No. 44585

THE STATE OF OHIO, PLAINTIFF

v.

JAMES EDWARD CRAMPTON, alias JAMES BRYER,
alias EDSEL FRITZ MOORE, DEFENDANT

PLEA

Defendant James Edward Crampton, being arraigned upon the indictment herein for murder in the first degree and present with his counsel, waives any defect in the time of service of the indictment and states that he has read and understands the indictment.

For his plea thereto, defendant says that he is not guilty of the charge made in the indictment, and for a further plea says that he is not guilty by reason of insanity of the charge made in the indictment.

JAMES EDWARD CRAMPTON
Defendant

EXCERPTS FROM DEFENDANT'S EXHIBIT B-1,
TOLEDO STATE HOSPITAL MEDICAL RECORDS

CASE HISTORY OF MENTAL ILLNESS

DEPARTMENT OF MENTAL HYGIENE AND CORRECTION

This form to be completed by the person making application for admission or by any other interested competent person.

1. Full name of patient *James E. Crampton*
2. Age *40* Born: Month *9* Day *18* Year *26* Place *Owosso, Michigan*
3. Race *W* Sex *M* Single-*Married*-Divorced-Separated-*Married* Religion *Methodist*
4. Patient now resides at
   2715 Hoehler Dr Toledo 43606 Lucas Ohio
   (Street Address) (City) (Zip Code) (County) (State)
   and has lived at this address for a period of *2 months*
5. Previous place of abode
   Leavenworth Prison *Kansas*
   (Street Address) (City) (Zip Code) (County) (State)
   Length of residence at previous place of abode *18 mo.*
6. If not known to be a legal resident of Ohio, give place of legal settlement. _____
7. Occupation *Med Tech* When and where last employed *St. Vincents Hospital*
8. Education: None _____ Common School _____ High School *X* College _____
9. If patient is of foreign birth, give date and port of entry into the United States _____
10. If of foreign birth, is patient naturalized? _____ When _____
11. Who will supply clothing? *Wife*
12. Who is responsible for cost of hospitalization? *Wife*

13. Name and address in full of person to whom correspondence is to be directed *Wilma J. Crampton, 2715 Hoehler Dr., Toledo 43606 472-2357* Relationship *Wife*

14. Guardian: Name _____ Address _____

15. Name and address of family physician *Rolland Scherbarth—Douglas Rd.*

16. Is patient an honorably discharged soldier, sailor, marine, army or navy nurse (male or female) or is patient a widow, widower, or other legal dependent of a deceased soldier, sailor, marine, or nurse of any war in which the United States has engaged? *He was in service, but I don't know any particulars*

17. If so, state date of induction into active service of such ex-service man or woman and date military or naval rank, and organization at time of his or her discharge; and if a dependent, state the name of the deceased ex-service man or woman upon whom such dependency is claimed: _____

FAMILY HISTORY

1. Father's name *Crampton* Birth place *?* Naturalized *?*

2. Birth date _____ Legal residence _____

3. Present address *deceased*

4. Present state of health _____

5. If deceased, give age and cause of death *tuberculosis-alcoholism*

6. Occupation of father _____ Education _____

7. Mother's maiden name *Wallace* Birthplace *?* Naturalized *?*

8. Birth date *?* Legal residence *109 Maple Durand, Michigan*

9. Present address *Same*

10. Present state of health *good*

11. If deceased, give age and cause of death .....

12. Occupation of mother *practical nurse* Education *?*

13. Were father and mother related by blood? *No* If so, in what degree? .....

14. Wife's maiden name *Richards* Birthplace *Toledo* Naturalized?

15. Present address *2715 Hoehler Dr.*

16. Names and ages of children *Kevin Crampton-age 7-*

17. Which of patients, parents, grandparents, brothers, sisters, uncles or aunts, if any (give name), ever had the following habits or diseases; mental illness, nervousness, nervous breakdown, hysteria, epilepsy, spasms, convulsions, fainting spells, sunstroke, paralysis, feeble-mindedness, mental retardation, tuberculosis, syphilis, cancer, drug addiction, alcoholic addiction or any other diseases? *father—one brother——Jac—same history as patient*

18. Give name of any relative who is or who has been confined in a public or private institution (mental and nervous, correctional, county home, children's home, etc.), place and date. *Joe O. Crampton presently in State Mental Hospital in Michigan*

19. Other pertinent facts in family history *Father—alcoholic—divorced when Jim was 12—Stepfather—cruel & unyielding—beat patient, etc.*

HISTORY OF MENTAL ILLNESS DEFICIENCY

20. How long have you known this person *2 years*

21. Have you known this person intimately? *Yes*

22. When was the first sign of mental illness observed by you? *early October*

23. What was the first sign of mental illness observed by you? (Explain fully) *erratic behavior in repairing our home—violent outbursts of temper, He was on amphetamines—and would go without sleep for 48-72 hrs.*

24. Was the present attack gradual or sudden in its onset? *gradual*

25. State what leads you to believe this person is mentally ill *Psychiatric opinion observation*

26. Has this person shown any antisocial behavior? *Yes*

27. Was this person previously stable and well-adjusted? *No*

28. Number of previous attacks of mental disorder *Unknown*

29. Has this person been a patient in any hospital, private or public, for the mentally ill or any other institution? *No* Where and how long? .....

30. Has this person suffered serious physical injury? (paticularly to Head) *He has lump on head but I*

31. If so, give particulars *don't know if it is from injury,*

32. Has this person suffered any serious illness? *Yes* State when and of what nature, and the name and address of physician or hospital *Lobectomy—Jackson Prison*

33. Has this person ever had any surgical operations? *Yes* State when and of what nature, and name and address of physician or hospital *Above*

34. Has this person suffered any great mental shock or strain? *Yes*

35. Has this person required feeding, seclusion or restraint? If so, explain fully .....

36. Has this person been addicted to the use of alcohol or drugs? *Yes* If so, explain fully *amphetamines*

37. (Answer Yes or No) Is person paralytic? *No* Bedridden? *No* Untidy? *No* Violent? *At times* Destructive? *Yes* Excited? *Yes* Depressed? *Yes* Homicidal? *?* Suicidal? *Yes*

38. If any of the above are true, describe *He has threatened me with a knife twice and struck me ones*

39. Is there any physical defect or deformity? *No*

40. Has person ever suffered from syphilis? *No*

41. Is person epileptic? *No* Was person feeble-minded in childhood? *No*

The above information furnished by *Wilma J. Crampton* Address *2715 Hoehler Dr* who is a *Wife* of the patient.
(State Relationship)

This information is believed to be true to the best of his or her knowledge.

Date prepared *11/4* 19*66*

LETTER FROM J. M. KENYON, M. D.

J. M. KENYON, M. D.
4303 Monroe Street
Toledo, Ohio—43606

November 7, 1966

Phone:

(Area Code 419)
475-5571

Joseph E. Duty, M.D.
Toledo State Hospital
Box 2027
Toledo, Ohio 43603

RE: Mr. James E. Crampton—Born Sept. 18, 1926

Dear Doctor Duty:

Your patient, Mr. James Crampton, was in St. Charles Hospital November 2, 1966 to November 4, 1966. He had been admitted to St. Charles with difficulty after having taken amphetamines and barbiturates off and on for two months in excessive doses.

Patient's family background is negative except that a younger borther, Jack, age 38, is presently in state hospital, Pontiac, Michigan—also has a prison record.

This patient's physical health has been good except for a pulmonary operation on the left side about February 1952. He has been drinking about an 8-pack of beer daily according to his wife, has been taking amphetamines and barbiturates since September 1966 but also has taken some before that. Exact details were unknown. The patient had been previously married, has one son. He divorced the first wife; they remarried again and there was a second divorce. He married his present wife September 23, 1966. She is 7 years older, works as a legal secretary.

His wife reported he has been threatening since the marriage, twice threatened her life with a knife, he has

overdrawn their joint checking account by $100 or more, he has served 10 years in prison apparently 18 months for car theft, 9 years for armed robbery. She states he has an explosive temper, is irritable, agitated, depressed and recently walked off his job. When he was first admitted to St. Charles Hospital he came in the day after it was arranged, was in only a few hours then insisted on signing himself out. After he had signed himself out there was a snowstorm, he couldn't get transportation, his wife was fearful to have him home, called the police. They came over to see him and persuaded him to sign himself back into hospital. Even then he talked about leaving in the short time he was in. Because of his wife's fear that he would harm her, the patient's apparent inability to control his own impulsiveness it was recommended he be committed to state hospital for continued treatment. During his time in St. Charles Hospital he apparently secreted some of the pills given to him rather than take them. He showed evidence of his explosive temper and impulsiveness. He was considered to have a depressive reaction and also a sociopathic personality. During the time he was in hospital his wife had been quite upset, there had been numerous calls from his wife, from a daughter she had by a previous marriage to various physicians including Doctor Scherbarth, Doctor Felker, Doctor Evers, Doctor Peters and Doctor Hartman. These had not been single calls but repeated calls in some cases. I believe I had something like a dozen calls in one day the first day that he was admitted. He does present a rather difficult problem.

Hoping this is of help.

Sincerely yours,

/s/ J M KENYON
J. M. KENYON, M.D.

JMK/dt

Toledo State Hospital Records

PSYCHOLOGIST'S REPORT

PSYCHOLOGY REPORTS
REQUEST

TO:	FROM:	DATE OF REQUEST
Psychology Department	Dr. Neverauskas	11-8-66

REASON FOR REQUEST

PSYCHOLOGIST'S REPORT

Date of Report: 11-9-66

A tall, sturdily built, forty year old, Caucasian male, the patient is being seen at the request of the attending physician and is being expedited in view of the scheduled court hearing. He comes to the hospital as a Court Detention having been transferred from private care at St. Charles.

Personal appearance was cleanly and he was cooperative during the lengthy interview and testing period. No marked evidence of evasion nor hostility was apparent but, to the contrary, he expressed a willingness to actively participate in his own cure. He was fluent and verbal throughout the entire contact and, as a matter of fact, displayed a modest measure of speech pressure at the onset. This was apparently the product of initial anxiety and was readily controlled.

He was oriented in all spheres and displayed excellent memory for both recent and remote events. No present evidence of hallucinations nor delusions could be discerned but he did admit to paranoid feelings and some pent-up hostility prior to his seeking help at St. Charles.

FAMILY HISTORY:

A native of Owosso, Michigan, Mr. Campton is the oldest of three boys. He has a thirty-six year old brother who is a career army man. His thirty-eight year old brother has "gone the same route", which means a history of incarceration, recent drug addiction and current patient status at Pontiac State Hospital.

He has two half-sisters who are married and live in Michigan as well as a married half-brother. He has little contact with these half-siblings.

His parents divorced when he was quite young and his mother shortly remarried. The family was moved to Wilmatte, Illinois where the patient made his home until he left high school to join the U.S.N.R. in 1944. It is unclear whether his mother again divorced or whether his step-father passed on but, in either event, his mother recently remarried a much older man. She is, according to the patient, "a registered nurse" (record states L.P.N.) and her recent marriage was to a patient she had been specialing.

The patient has been a fairly frequent visitor with his mother and brother and some apparent proximity exists.

EDUCATIONAL HISTORY:

The patient completed three years of high school without difficulty but quit in 1944 because of an eagerness to enter the Navy.

MILITARY HISTORY:

He served for about one year in the U.S.N.R. and was honorably released in August of 1944 with a medical discharge. All of his time was spent stateside and the

reason for his release was a "lung fungus" which was later operated in 1952 by U. of M. surgeons. His Navy time was all "good time" with the exception of a three day brig stay because he was late returning to base. When released, his rate was aircraft ordinance man/ second class.

MEDICAL HISTORY:

In 1936 when the patient was ten years of age he was flipped from an ice truck and apparently suffered a severe concussion but no skull fracture. He indicates that his mother has told him that he was unconscious for about three days. He has had multiple EEGS over the years but does not know of the results of these testings.

OCCUPATIONAL HISTORY:

No real sequence of employment can be delineated here, principally because of multiple incarcerations. However, while in-prisoned at Jackson, Michigan, he was trained for laboratory techniican work and has been so employed by Foote Hospital in Jackson and at Flower Hospital here in Toledo. Prior to his admission to T.S.R.H. he was employed at St. Vincents and he understands that his boss, being cognizant of his background and present difficulty, is holding his job open for him.

HABITS:

This patient has a long history of offenses, apprehensions and imprisonment. After his release from the U.S.N.R. in 1945 he "bummed around" for quite a time and finally found himself in New York City. He was employed by the ventriloquist, Paul Winchell, as a valet and general handyman. He stated that his step-father was also in the New York City area and was pressing him for money. He robbed his employer of between one and two thousand dollars, giving some to his mother and some to his step-father. He was arrested for this and sent to Elmira Reformatory on a five year sentence. He served eighteen

months for this period before being released and coming to Toledo.

In 1949 he was arrested for armed robbery although he indicates that he was not an active participant but just a "back seat rider". He was charged with armed robbery and sentenced to ten and a half-thirty-one years at Jackson and he served a full nine years before being released on parole. It was there that he was trained as a medical technologist. It was also while a prisoner that his rib resection was done for granuloma.

He had married in 1959 and he speaks of a "marital explosion" which led to his being returned to Jackson in 1961 as a parole violator. The cause of his return was his "aggressive attitude", according to the patient. He served twenty-two months and was then terminally paroled.

His wife was granted a divorce in 1961 but in 1964 they were remarried. However, a short time after the remarriage they were again in marital difficulty and the patient decided to head for Mexico, change his name and begin a new life. He drove to Muncie, Indiana, left his car there and rented an Avis when he then drove to Port Arthur, Texas. He felt that another chance at rehabilitating the marriage was in order and he called his from the Texas city. She, in turn, contacted the police and he was picked up there, charged with transporting a stolen across state lines (a federal charge) and based on his inability to pay for the rental. He was charged, tried and sentenced to two years at Leavenworth, serving eighteen months of this sentence and being fully released in August of 1966.

A very short time after his release from Leavenworth he was visiting his brother in Michigan and this brother was already addicted to amphetamines. He "turned on" our patient, provided him with about four hundred Desoxyn and this produced a progressive need state which, prior to his hospitalization, was producing an ingestion of twenty-five-thirty tablets daily.

MARITAL HISTORY:

The patient was first married in June of 1959 and was divorced by this wife in 1961. They have a seven year old son who makes his residence with his mother. When he was released from prison in 1964 he remarried the same woman but she divorced him in 1965 after he took off for Mexico solo. He states that he is not obligated for alimony or for support because she has refused any such contributions. He states that he is now hopeful that he can make such arrangements with the court and that this will permit to be allowed visitation privileges with his son.

When he returned from Leavenworth he found employment at St. Vincents and in this capacity made the acquaintance of his present wife who was then a patient there. She is a forty-seven year old woman with a twenty-two year old daughter and a seventeen year old son. Both of these young people make their home with the patient and his present wife. She was previously married to a man who is now a detective lieutenant and to a CPA, the latter being the father of her children. He described the present marriage in rather idyllic terms, indicating that both are mature, have gone through the mill and know what they want from this marriage.

PRESENT ILLNESS:

The present symptoms in this instance seem to relate directly to the amphetamine addiction. Even though he knew that his brother was "hooked" this did not deter the patient from developing a typically increasing need. Prior to his hospitalization he was consuming twenty-five-thirty Desoxyn daily and sleeping about two-three hours out of each forty-eight. His spare time was spent in aimless driving, e.g., to Cleveland to see a movie, painting landscapes, busying himself around the house and otherwise displaying what would superficially appear to be extremely manic behavior patterns. He freely concedes that his judgment was extremely loose, his temper short and some of his behavior quite irrational. For

example, he recalls feeling a considerable amount of suspicion regarding his wife's fidelity and entertaining some rather hair brained schemes for himself and his future. He also describes a situation where he was carving a roast and when his wife made some comment he raised the knife towards her but denies any real intent to assault. He also describes an awareness of attempting to repair the electric dryer with the plug still in and receiving a couple of pretty substantial shocks while sitting in a pool of dampness. It was this incident as much as any other, according to the patient, that precipitated his contact with his step-daughter. She is a graduate student in psychology at T.U. who immediately sought professional assistance and the family was able to arrange his admission at St. Charles.

TEST FINDINGS:

The tests administered included the Bender-Gestalt, Projective Drawings and Rorschach.

The B-G was done quickly but with appropriate attention to detail. Some collisions and minor imperfections occur but the gestalten are largely maintained. Organization was a bit loose and the figures themselves somewhat enlarged, both typical of some grandiosity. There is also a distinct hedonistic flavor with accompanying difficulties in interpersonal relationships. However, nothing indicative of either a psychotic process or of prefrontal lobe involvement can be isolated.

The Projective Drawings show ready evidence of his artistic talent and training. It is to be recalled that he is an amatuer painter so that he is able to produce these drawings quickly, averaging less than a minute on each. They are in acceptable form, good perspective and display, more than personal dynamics, the result of his artistic training.

The Rorschach elicited a total of sixteen responses, none of poor form quality and several of which are popular in construct. These factors, in addition to the foregoing, deny the existence of a psychotic process and show a

surprising freedom from any post-toxic involvement of thought processes.

SUMMARY:

This forty year old, thrice-married Caucasian male comes to T.S.R.H. after a relatively short term but definite addiction to amphetamines. His background includes multiple incarcerations involving about fifteen years of his life. His present marriage, although somewhat rocky at the moment, he looks to as a potentially durable one. Employment background is obviously limited but he has been trained in and most recently employed as a laboratory technician.

The test findings fail to show any marked psychotic process nor, for that matter, any residuals of his recent amphetamine intoxication. There is conscious retention of psychotic behavior during his pre-hospital phases, however.

This man's long background of antisocial behavior points to the diagnosis of Sociopathic Personality Disturbance, antisocial reaction. He appears to have recovered from his addiction and its involvement with his acute behavior disturbance.

/s/ B. W. TANNER, Ph D
B. WILLIAM TANNER, Ph. D.
Senior Staff Psychologist

sjw

Crampton, James 413628
Toledo State and Receiving Hospital

ATTENDING PHYSICIAN'S ADMITTING DIAGNOSIS

Admitted	11/4/66
AGE	40
SEX	Male
EDUCATION	H.S.
OCCUPATION	Laborer
RELIGION	
CIVIL CONDITION	Married
NATIVITY	
ENVIRONMENT	
DATE OF ONSET	

November 16, 1966

This is a 40 year old white male married patient admitted to this hospital on 11/4/66 from Lucas County.

Reason for Admission: Patient threatened his wife with a knife on several occasions. He is unable to control his impulsive acts. Patient is addicted to Desoxyn.

Mental Status: Oriented, incoherent, fairly cooperative, but nervous, tense, restless, agitated, and shaky. Patient answered questions in a normal tone and logical progression but appears overtalkative. He denies delusions and hallucinations. Patient is tidy and clean. The main reason for his hospitalization was because patient was unable to control his impulses, becoming very quarrelsome and accusatory toward his wife. On several occasions, he threatened to hurt his wife with a knife and was using in excess Desoxyn tablets. Patient admits that he has an unmanageable, easily becomes upset, irritated, impulsive. He admits that this is his main problem and he can't adjust to his family or the outside. Patient has a long history of conflicts with the law. On several occasions, he was jailed. He served nine years before being

placed on parole for armed robbery. There have been several short periods of jail for breaking his parole. Patient has been married several times and states all his marriages have been unsuccessful and have ended in divorce. He admits that his last marriage would have worked out but due to his unmanageable temper, they have frictions. Patient admits that he threatened her with a knife on several occasions but states that this was nothing serious and he only wanted to scare her. His contact with reality is good. Memory and judgment not impaired. Patient admits that he uses in excess amphetamines and he understands that this makes him nervous and he was unable to quit.

Impression: Sociopathic Personality Disturbance, Antisocial Reaction (52.03)

Crampton, James 413628
Toledo State Hospital

Prognosis: Guarded.

Recommendation: Tranquilizing medication, work assignment, group psychotherapy.

Further Investigation: EEG would be recommended.

Condition for Release: Marked improvement in his mental condition.

Dangers and Warnings: Under stress, patient could be dangerous to his wife.

/s/ PRANAS NEVERAUSKAS, M.D.
11-28-66

jam

EXCERPTS FROM DEFENDANT'S EXHIBIT B-2,
LIMA STATE HOSPITAL MEDICAL RECORDS

PSYCHIATRIC PROGRESS NOTES

ADMISSION NOTE: June 1, 1967 (Dr. Chomyn:df) HISTORY OF HOSPITALIZATION AT TOLEDO STATE HOSPITAL, AUDITORY HALLUCINATIONS, SUICIDAL ATTEMPTS, WITHDRAWN, SUSPICIOUS, APPREHENSIVE AND PREOCCUPIED.

This 40-year-old, white male was admitted today from the Common Pleas Court of Lucas County for 30 days mental observation. He is charged with Murder First Degree after he shot and killed his wife.

This patient was born in Michigan and has three brothers and two sisters. He has had a lung operation in 1952 for a tumor of the left lung. There is wheezing breathing over his lungs. Blood pressure is 110/90. He claims two years of college education and was employed as a laboratory technician in a hospital in Toledo for the past 12 years. He volunteered into the U.S. Navy in 1944 and got an Undesirable Discharge in 1945 for having been AWOL. He spent six months in the stockade. He was married for the first time in 1959 and divorced in 1962. He remarried the same woman in 1964 and was divorced in 1966. He married another woman on September 23, 1966 who was shot and killed by the patient on January 17, 1967. The patient says, "They say I killed her. It was an accident. She was asking for the gun. When I wanted to give her the gun it went off accidentally and she was struck on the head." The patient went to Dr. Scherbarth for medical advice, "because I felt too nervous." The doctor advised him to go to Toledo State Hospital. The patient entered Toledo State Hospital on November 4, 1966 "because I was suspicious of my wife, that she was being unfaithful to me. I still believe that she was unfaithful. I was on a 12-day leave from Toledo State Hospital when this incident of shooting and killing took place. I hear imaginary voices since the night she was killed." He has a history of suicidal attempts on three different occasions. He cut his wrist on two occasions and once he tried to hang himself. The

patient is inclined to be withdrawn, suspicious of other people that they are watching him and he is preoccupied. A full psychological evaluation is indicated in this case. An electroencephalogram has been requested.

/s/ A. CHOMYN M.D.

NOTE: June 7, 1967 (Dr. Chomyn:df) FAINTING-LIKE SPELLS, HISTORY OF HOSPITALIZATION AT TOLEDO STATE HOSPITAL AND INCARCERATION IN PENAL INSTITUTIONS FOR FELONIES.

This 40-year-old, white male had to be transferred from the admitting ward to Ward 9 (locked ward) because of his fainting-like spells. Following these spells he was taken to the Male Hospital. He would not answer questions. Therefore he was transferred to a locked ward. Today this patient is oriented to time and denies hallucinations. He has a history of a suicidal attempt when he cut his forearm superficially. The patient says, "I got mad at my wife and therefore I cut myself." He has been a patient at Toledo State Hospital. "I committed myself because I was imagining that my wife was unfaithful to me. After three months of hospitalization I did not return to the hospital from a home visit." He has a history of numerous arrests on charges of Armed Robbery, Grand Larceny and Car Theft. The patient claims he did not kill his wife "because the gun went off accidentally."

/s/ A. CHOMYN M.D.

NOTE: June 15, 1967 (Dr. Chomyn:df) COOPERATIVE, ALERT AND IN FAIRLY GOOD CONTACT, HISTORY OF NUMEROUS ARRESTS, INCARCERATIONS IN PENAL INSTITUTIONS, LIFE-LONG HISTORY OF EMOTIONAL INSTABILITY, HISTORY OF BRIEF TOXIC HALLUCINATORY EXPERIENCES IN RELATION TO HIS USE OF ALCOHOL AND BARBITUATES.

This 40-year-old, white male, who has had fainting-like spells following his admission to Lima State Hospital,

presently is cooperative, alert and in fairly good contact. He is oriented to time and denies hallucinations. He has a history of numerous arrests and incarcerations in penal institutions. In the past he has demonstrated on occasions brief toxic hallucinatory experiences in relation to his use of alcohol and barbituates. These experiences have been brief so that promptly were cleared after the toxic effect of the drug was gone.

/s/ A. CHOMYN M.D.

STAFF NOTE: June 28, 1967 (Dr. Jarem:nh) This is a 40-year-old, white male who was presented to Staff by Dr. Chomyn. He was admitted to Lima State Hospital on June 1, 1967, by Common Pleas Court of Lucas County for 30 days' observation under Section 2945.40. He plead not guilty by reason of insanity to the charge of Murder, First Degree. His past history reveals that he was born in Michigan and has three brothers and two sisters. He claims two years of college education and was employed as a laboratory technician in a hospital in Toledo, Ohio. He was serving in the U.S. Navy in 1944 and received an Undesirable Discharge in 1945 for having been AWOL. He was married the first time in 1959 and divorced in 1962. He remarried the same woman in 1964 and was divorced in 1966. He married another woman in September, 1966, whom he shot and killed on January 17, 1967. The patient claims that it was an accident, that he did not plan to kill her. His criminal record indicates many arrests for various offenses, and in 1942 he was committed to Illinois State Training School for Boys, and in 1946, he was committed to Elimara Reformatory in New York on charges of Grand Larceny. He also served time at the U.S. Penitentiary at Leavenworth, Kansas, on charges of the Dyer Act. He has been using Morphine, Demerol and Heroine since 1948. He has also been drinking alcohol to excess, and he was a patient at Toledo State Hospital in November, 1966. He was on Trial Visit from Toledo State Hospital when he shot and killed his wife. While in Lima, he admitted to hearing

imaginary voices, however, this hallucinatory experience lasted only for a brief period of time. It was the opinion of the Staff that the patient knows right from wrong, and he is legally sane.

Diagnosis: Anti-Social Reaction, with alcohol and drug addiction, 52.03.

/s/ M. JAREM M.D.

Crampton, James Edward
Lima State Hospital 22208

PSYCHOLOGIST'S REPORT

PSYCHOLOGIST'S NOTE (Mr. Williams:bjw) June 19, 1967. This 42 year old white male is charged with First Degree Murder in the shooting of his wife. He claims the shooting was an accident. The accounts he has given to various persons have differed as to details. He had been in Toledo State Hospital for treatment of amphetamine addiction. He left TSH. He claimed that his wife had been talking about shooting herself if he did not return to TSH. He talked about gathering up the guns around the house. His wife was sitting on the toilet. He had just removed the clip from an automatic when his wife asked to see it. He stated that in handing the gun to her, it fired and the bullet hit her in the head. He states he has no idea what happened—what caused the gun to fire.

He was seen on Ward 9. Transfer had been made from Ward 3 because of alleged blackout spells.

He has a long arrest record dating back to early juvenile days. He has been incarcerated in such institutions as Illinois' BIS, Elmira Reformatory in New York and Leavenworth Federal Reformatory.

He was cooperative during testing and interview. Tests administered included the Wechsler Adult Intelligence Scale, the Bender-Gestalt, the Draw-A-Person, and the Rorschach. On the WAIS he made a Verbal IQ of 106, a Performance IQ of 109, and a Full Scale IQ of 108. This

reffects Average level intellectual functioning. Sub-test scatter reflects attention deficit and concentration difficulties. Testing is negative for organicity and psychosis.

The Bender record basically reflects rigidity of approach in his behavior. Figure drawings are of good quality. They suggest his attempts to relate with his wife and also suggest aloof rejection on her part.

On the Rorschach he gave only one response per card. In general he sought to utilize the entire card for each of these responses. This behavior suggests that he frequently over reaches himself in terms of the goals he sets out to achieve. Easy frustration seems a probable cause for his lengthy criminal record—acting out his feelings to frustration that must have come frequently.

The Rorschach record does not reflect serious mental disturbance. The percepts tend to be usual populars. The record reflects an individual whose impulses are close to the surface, who seeks immediate gratifications. Also, he tends to brood and be introspective. He seems to have some feelings of masculine inadequacy.

This individual functions at an Average level intellectually. He has some concentration difficulties and is mildly unstable emotionally. However, both interview and testing are negative for organicity and psychosis. He should be considered legally responsible for his actions.

/s/ Bob J. Williams
Bob J. Williams
Staff Psychologist

SOCIAL SERVICE REPORTS

ADMISSION NOTE: June 6, 1967 (Mr. Zickafoose: df) This 41-year-old, twice married and widowed, Caucasian male was admitted to this hospital June 1, 1967 from Lucas County Common Pleas Court. At present he is under indictment for Murder, First Degree. He allegedly shot and killed his wife.

Upon admission this individual was placed on the observation ward, Ward 3, and due to his alleged "blackout or fainting spells," he was transferred to Ward 9 by his ward psychiatrist.

This individual was interviewed on Ward 9 by Mr. Ted Friesner and Mr. Ed Zickafoose. During the interviewing situation the patient appeared to be extremely talkative, voicing many complaints of a somatic nature but seemed to be in total contact with his present environment. This patient knows the purpose of his commitment to this hospital, knows the charge he is accused of (Murder, First Degree of his wife), and at present is alert and able to discuss his past life, his present situation and his future plans. The patient had many somatic complaints concerning blackout spells, upset stomach, headaches, dizziness, fainting spells and stated to this interviewer that he is presently and has in the past contemplated suicide. He states that when he was transferred from Ward 3 to Ward 9 in this hospital that he felt as though he wanted to take his own life by strangling himself with his undershirt.

The patient talks quite frankly of his being mentally ill in the past and hints strongly that he is possibly mentally ill at present.

Briefly, a survey of this individual's past history indicates that he was in trouble at an early age and was in prison as a juvenile in the Illinois Training School for Boys in St. Charles, Illinois from 1942 until 1943. He had been charged with Petty Larceny. The patient states that his hatred for his stepfather was the primary cause of this trouble at home and with the authorities. The patient claims to have completed two years of college in approximately 1960 after having graduated from high school in earlier years. He states he was in the pre-med course at the University of Toledo, Ohio. The patient's natural father, Archie Carl Crampton, a native of Michigan, died in 1942 as a result of tuberculosis. The patient's father apparently had a high school education and was afflicted with TB for six or seven years previous to his death. The patient's father's main occupation was that of a restaurant manager. The patient's father was a veteran of World War I according to the patient. It appears that the patient's natural parents were divorced in 1933. The patient's natural mother, Charlotte (Wallace), a native of Michigan, is 63 years of age and in good health. The patient states that his mother is a regis-

tered nurse and is semi-retired, working occasionally as a private nurse. The patient states that his natural mother remarried in 1934 to his stepfather, Henry (Louis) Bryer. He states that his stepfather died in approximately 1960 as a result of leukemia. Previously the patient's stepfather and his natural mother were divorced in 1945. The patient's stepfather's occupation was a CPA, an auditor. The patient made much of the fact that he could not get along with his stepfather. The patient states that he has two full brothers, Jack, age 39, and Gary, age 37. The patient's full brothers are both married. Jack has been diagnosed as an alcoholic, possibly addicted to drug, according to the patient's description. The patient states that his brother, Jack, was committed to the Pontiac State Hospital in Michigan. The patient has a half-brother, Ormond, age 31, who is married. He has two half-sisters, Karyl, age 32, who is married and Helen, age 28 who is also married. He states that he had a full sister, Suzanne, who died in 1951 as a result of polio at the age of 18. The patient denies the existence of mental illness, epilepsy or other similar convulsive disorders in his family with the exception of his brother, Jack. The patient states he was born and reared in Owosso, Michigan for approximately eight years. He moved with his family to Chicago, Illinois, from 1934 until 1945.

The patient states he was in the U.S. Navy from 3/13/44 until 6/29/45 at which time he states he received an Undesirable Discharge. He states he went AWOL several times and was unable to adjust to military life.

As was mentioned previously, the patient was in a training school for boys in 1943 in Illinois and when his family moved to New York, he again became involved with the law. He was working for the comedienne and entertainer, Paul Winchell, and stole approximately $1,000 from him according to the patient. He was incarcerated in the Elmira Reformatory in New York for two years, from 1946 until 1948. His next period of incarceration began in 1949 when he was imprisoned for Armed Robbery in the Jackson Prison of southern Michigan. He was given a nine year sentence. He was again incarce-

rated for 18 months in the Leavenworth Federal Reformatory in Kansas. The patient states he was released from the Leavenworth Federal Reformatory in August of 1966. He was involved in interstate transportation of a stolen motor vehicle at that time.

The patient's story concerning his two or three marriages is quite confusing. The patient states he married Sandra (Wing), age 21 at the time, in 1958. There was one male child of the union. The patient states that due to his incarceration, his wife received a divorce from him in 1962. The patient states that he was suspicious of his wife's fidelity during his prison term. The patient also states he was mentally ill in prison during this time. He then remarried Sandra Wing in 1964 and was again divorced in 1965, following his conviction of parole violator in the State of Ohio. The alleged victim of the patient's crime of First Degree Murder, mentioned in the hospital file, was the patient's second wife. (The patient married the first woman two times). The area of the patient's involvement in the charge of Murder, First Degree was not discussed during this particular interview.

The patient attempted to be as informative as he could concerning his past history of mental illness, and in fact seemed to respond to suggestions made by this interviewer concerning his past and present mental illness. The patient described his own past prison condition as "paranoia." He states that he was on heavy medication while being committed to the Toledo State Hospital in November of 1966, and that upon withdrawal from this medication the symptoms of his mental illness became apparent again. The patient was apparently on a 12-day Christmas leave from the Toledo State Hospital when he allegedly shot and killed his wife.

The patient will be reinterviewed upon receipt of information from outside sources by this department.

/s/ E. F. ZICKAFOOSE
E. F. ZICKAFOOSE
Caseworker

Crampton, James Edward 413628 22208
Lima State Hospital

Report of Psychiatric Examination

June 20, 1967 (Dr. Chomyn:df)

PHYSICAL EXAMINATION:

This 40-year-old, white male is in good physical health. Blood pressure is 110/90. Blood serology is non-reactive.

NEUROLOGICAL EXAMINATION:

Station and gait are normal. Romberg and Babinski are negative. Deep tendon reflexes are active. Cranial nerves are intact.

MENTAL EXAMINATION:

General Behavior: This patient is cooperative, alert and in fairly good contact. He is oriented to time and denies hallucinations and suicidal ideas.

Stream of Talk: Normal.
Memory: Fair.
Hallucinations & Delusions: Denied.
General Information: Average.
Insight & Judgment: Lacking.

SUMMARY:

This 40-year-old, white male is an observation case who was referred to this hospital from Common Pleas Court of Lucas County on June 1, 1967, for 30 days mental observation. He is charged with Murder, 1st Degree, after he shot and killed his wife on January 17, 1967.

This patient was born in Michigan and has three brothers and two sisters. In 1952 there was a tumor operatively removed from his left upper lung region. The patient's physical and neurological examinations are negative. The patient claims two years of college education and was employed as a laboratory technician in a hospital in Toledo, Ohio. He volunteered into the U.S. Navy in 1944 and got an Undesirable Discharge in 1945, for

having been AWOL. He spent six months in the stockade. He was married the first time in 1959 and divorced in 1962. He remarried the same woman in 1964 and was divorced in 1966. He married another woman in September 1966 whom he shot and killed on January 17, 1967. The patient claims it was an accident, because he did not plan to kill her. This patient has a history of having been an incorrigible delinquent. He has been arrested numerous times on charges of running away from home, vagrancy, car theft, parole violation, escape from incarceration, grand larceny, armed robbery, violated drug law and finally Murder, 1st Degree. In 1942 he was committed to Illinois State Training School for Boys on charges of Car Theft. In 1946 he was committed to Elmira Reformatory, New York on charges of Grand Larceny. In 1965 he was committed to the U.S. Penitentiary in Leavenworth, Kansas on charges of Dyer Act. He has been using dope, like morphine, Demerol and heroine, since 1948. At the same time he began to drink alcohol to excess. He has been an inmate at the Michigan Reformatory in Ionia and Michigan Penitentiary for armed robbery and drug law. On admission to Lima State Hospital this patient claimed he has been working as a laboratory technician at St. Vincent Hospital which is at Toledo, Ohio for the past 12 years. We got a written report from St. Vincent Hospital in Toledo that this patient has been working there for only three days. This patient has been accusing his wife of unfaithfulness. Therefore, on the advice of his wife he entered Toledo State Hospital in November of 1966. Mr. Crampton was still a patient at Toledo State Hospital when he shot and killed his wife on January 17, 1967. Following admission to Lima State Hospital on June 1, 1967 this patient said that he hears imaginary voices. However, these hallucinatory experiences lasted only for a brief period of time. The patient admits that prior to shooting and killing of his wife he had been drinking alcohol and consuming barbituates. This patient has a prolonged criminal record and never was found to be insane. His IQ is of 108. The psychological evaluation does not reveal any psychosis or brain damage.

CONCLUSION:

The patient is sane.

This 40-year-old white male has been in trouble for at least 25 years. He has a history of numerous arrests and incarcerations in penal institutions. He was unable to profit either from experience or punishment. He is in good contact with reality and able to differentiate between right and wrong.

SUGGESTED DIAGNOSIS:

Sociopathic Personality Disturbance, Antisocial Reaction, with alcohol and drug addiction, 52.03.

/s/ A. CHOMYN M.D.

LETTER AND REPORTS RECEIVED FROM DEPARTMENT OF CORRECTIONS, STATE OF MICHIGAN

STATE OF MICHIGAN
George Romney, Governor

CORRECTIONS COMMISSIONER

Duane L. Waters, M.D., Chairman
Max Biber
Earnest C. Brooks
G. Robert Cotton, Ph. D.
Florence R. Crane

DEPARTMENT OF CORRECTIONS

Gus Harrison, Director

State Prison of Southern Michigan
4000 Cooper Street,
Jackson 49201

June 21, 1967

E. F. Zickafoose
Caseworker
Lima State Hospital
Lima, Ohio

Re: James E. Crampton, our B 82979
Your: LSH 22208

Dear Sir:

Pursuant to your recent request for information on the above named subject, we are enclosing duplicated copies of our classification material which you may keep for your file.

Crampton was sentenced 4-13-49 in Saginaw County to 7½ to 25 years for Robbery Armed. Received 4-20-49 as #70740. Transferred to our Michigan Reformatory at Ionia 11-18-52. Escaped from there from the inside

by going through the hospital roof on 3-3-53. Returned 3-14-53 from Sioux City, Iowa.

Sentenced 4-17-53 in Ionia County to 3 to 6 years for Escaping Prison, 2nd Felony. Received 4-17-53 as B-82979. Transferred to our Branch Prison at Marquette 9-29-54, returned to Jackson 12-11-54. Paroled 5-1-57 in custody of the New York Parole Authorities for four years. Apparently, he was released from there to an Ohio parole. Violated 8-9-60 by failure to abide by his parole regulations. Returned 8-30-60 from Toledo, Ohio. Paroled 2-20-62 to Jackson County for 3 years. Violated 3-7-62 by changing residence without permission.

Sentenced 10-3-62 in Jackson County to 5 to 10 years for Violation Drug Law. Received 10-3-62 as C 82979. This sentence was vacated 7-22-63 and he was returned to prison to continue serving on his "B" sentence 8-2-63. Discharged 8-23-63 in custody of the Jackson Police Department.

In March 1965, he was in the United States Penitentiary at Leavenworth, Kansas.

We trust the enclosed material is what you desired.

Very truly yours,

/s/ MICHAEL MARTEMUCCI (LB)
MICHAEL MARTEMUCCI
Director
General Office Services

MM/leb
Enclosures

410-1651 CRAMPTON, JAMES 2

PREVIOUS PROBATION RECORD

None.

PRESENT CASE

3/24/49: Pleaded guilty in Saginaw Circuit Court. Case referred for investigation by Honorable James E. O'Neill, Circuit Judge.

3/25/49: Man interviewed at Saginaw County Jail. Stated he pleaded guilty on his own free will and that no promises, threats or coercion had been used on him by Gerald L. Hansen, State Probation Officer.

3/29/49: Case registered with Saginaw Social Service Index.

OFFENDER FAMILY

Parents

Archie Crampton, died in 1941 age the age of 38 of tuberculosis. He was hotel supervisor at Hotel Olds in Lansing prior to his commitment to Ingham County T.B. Hospital. Separated from wife in 1933 and she received a divorce in 1934. No property. No arrests. Heavy drinker—caused the divorce. Religion, Protestant.

Mother, Charlotte E. Bryer, 44, 108½ N. Washington, Owosso. Sales clerk at D.M. Christian Company, Owosso. Married Henry L. Bryer in 1934 and divorced him in 1946. Renting apartment at above address. No property. No arrests. No drinking. 12th grade education. Religion, Protestant. Health, fair. Anemic. Receiving A.D.C.

Stepfather, Henry Bryer, 59, New York City. Occupation, auditor for Federal Gavit. No arrests. There was a question of his sanity. He was very hard to get along with.

Siblings

Man.

Jack Crampton, 20, 2014 W. 23rd, Detroit. Occupation, truck driver. Married and has four stepchildren. Health, has a bad heart. A light drinker. Education, 9th grade. Protestant.

Gary Crampton, 19, Gramich, Germany. A corporal in U.S. Army. Single. Health, good. 11th grade education. No arrests. No drinking. Religion, Protestant.

Susan Crampton, 16, 2014 W. 23rd Street, Detroit. Single and living with brother. A student in the 11th grade. Health, good. Religion, Protestant.

Half-siblings

Karyl Bryer, 13, 620 N. Water. Living with friends of mother. Student in 8th grade. Health, good. Religion, Protestant.

Ormond Bryer, 9, living with Mr. and Mrs. St. Johns, R.F.D. Owosso, Michigan. Student in fifth grade. Health, good. Protestant. Had infantile paralysis in 1947 but has fully recovered.

Helen Bryer, 7, living with Mr. and Mrs. St. Johns, R.F.D. Owosso. Attending school. Health, good. Protestant.

Children

None.

General

Father in 1941, died of tuberculosis. Stepfather's sanity is questionable. Father was a heavy drinker.

MAN'S PERSONAL HISTORY

Early Life

Born September 18, 1926 in Owosso, Michigan. Father was a hotel supervisor at Hotel Olds, Lansing. Father was a heavy drinker and this caused a separation be-

tween the parents in 1933. In 1934, divorce was granted. Father died in 1941 from T.B. Defendant had been boarded out with many different families during his early life. Mother married Henry Bryer, a Federal Auditor in 1934 and offender returned to live with them, in Willmette, Illinois and lived there about eight years. Stepfather's sanity was questionable and he was very difficult to get along with. Ran away from home quite a number of times. Never remembers any happiness when younger. Remembers many family fights. Discipline was periodic, strict at one time and lax another. Left home for good when sixteen. Does not believe he had the advantage other kids had because his home life was not stable. Economic situation was average or below. Always got along good with mother.

Education

Began school at age of six in Owosso, Michigan. (Emerson School). Completed two grades there. Went to Howard School, Wilmette, Illinois and completed the eighth grade. Transferred to New Trier High School, Kenilworth, Illinois. Completed 9th and 10th grades there. Completed the 11th at St. Charles School for Boys, St. Charles, Illinois. Received a high school diploma at Elmira Reformatory, Elmira, N.Y. Had some commercial training at Elmira Reformatory. Also had typing, shorthand, and bookkeeping.

Work

1/3/49 to present—U.S. Army under name of Edsel F. Moore.

6/1/48 to 10/1/48—U.S. Forestry Service, Reno, Nevada. Carpenter work earning $6.00 a day and room and board. Left when work was completed.

3/1/48 to 5/1/58—Morrison, Knudeson Construction Company, Cheyenne, Wyoming.
Earned $1.15 per hour.

March, 1948, a couple of weeks at Corunna Restaurant, Corunna, Michigan. Cook.

Earned $35.00 per week.

3/13/44 to 8/25/44—U.S. Navy. Hit an officer. Does not know what kind of discharge he received.

1944, two months. Pundall Creamery, Owosso, Michigan.

Economics

No property. Has $1000.00 insurance policy, with the Government under name of Edsel F. Moore. No assets. Has $5.00 cash on hand. Owes mother about $45.00.

Health

Has been coughing up blood for past four or five months. Afraid he has T.B. Has not had a chest X-ray yet. Teeth, eyes and hearing good. No record of any chronic diseases. Had most all children's diseases. Capable of hard labor. Limbs of body in good condition. Had gonorrhea in 1945. Had it cured at Civic Medical Center in Chicago. No record of syphilis.

Habits

Smokes about one package of cigarettes a day. Intermittent heavy drinker and gets drunk when he drinks. Usually get drunk a couple of times a month. Has sexual relations with women about once per month. No homosexual relations. Relations with a prostitute only once. Uses a French safe. Gambles for small stakes usually. Has used banzedrine about seven months prior to present charge.

Recreation

Likes to swim, play baseball and hunt. Enjoys reading fiction. Usually murder stories. Does not attend movies very often.

Religion

Baptized and confirmed in the Baptist Church. Attended Sunday School when younger. Does not attend church. Believes in God.

Service Record

Enlisted in U.S. Navy on March 13, 1944. Seaman 2/C. Was discharged after hitting an officer. Not sure what type discharge he received. (Papers may be at home).

Enlisted in U.S. Army at January 3, 1949 at Reno, Nevada under the name of Edsel F. Moore. Fellow at Shiawassee County Jail gave him papers, birth certificate, social security card just before he broke out of jail. ASN Ra19342466, Fort Ord, California. Inf. Replacement Center, Co. A, 22nd inf regiment. Pvt. Now AWOL from Fort Ord. Expects dishonorable discharge for fraudulent entry.

Ambition

Knows he is going to prison. Hopes someday to open a small business of his own. Mother plans on going into business with him.

MARITAL HISTORY

Never married.

Copy of a letter written by James Crampton and he tried to smuggle it out of the bull pen.

Bill & Jim

I don't know how you guys feel about this case, but I'm going to ask you both a favor. First let me explain how stand here. The police have the .32 pistol that belonged to Jean. I told them that this was the gun that was used in the Robbery although the warrant states that we used a 45 automatic. I told them that I never saw a 45—and I'm going to stick to that story. They will

have you both on the stand and ask you what kind of gun was used. I'm asking you both to say that the gun used was the 32 revolver, it will save me and a lot of other persons a lot of trouble—you know what I mean —I'm going to say that Don got the gun in the first place and that might help you guys out some way. You both can help me get less time if you want to—Theres certainly no use in try to get me more time is there? You both got your's so it cant hurt you to help me. You both remember that night and you remember we were all drinking pretty heavy and I was taking Benzadrine in fact I took a whole tube that night all you have to do is say that I was drunk and doped up and I might get the same as you guy's got (5 to 20) other-wise I face 20 to live the least you can do is help me out. Just remember two things the gun was the 32 or a woodenone and that I was drunk and doped up on Benny. I think it would be better for all of us if you guys said that the gun that was used was a wooden gun carved to look like a 45, then in that way the couldent get us for armed Robbery, and you fellas could declair a miss trial and maybe beat this thing. I have a dam good lawyer and if you guys play ball with me we might be able to work something out.

See you in Court

Burn this when you get through

DIAGNOSTIC SUMMARY

Impression

Likeable. Neat appearing. Above average intelligence, 113 I.Q. Emotionally unstable. Slightly nervous. Patern of criminal conduct well formed. Ingratiates himself with people who may do him some good. Swindling, deceptive type. Irresponsible. Very apt to withhold information. Claimed to be spitting blood due to possible lung condition. History of gonorrhea. Claims he uses benzedrine.

Work Record

Very limited due to his age and time spent in prison. Claims a 10th grade education as verified by mother. Took commercial subjects at Elmira Reformatory. Claims work with U.S. Forestry Service and at gambling houses in Reno, Nevada. Worked a short time at a restaurant as a cook. Changes jobs frequently after short periods of employment. No specialized work.

Home Situation

Parents divorced when defendant was eight years old. The mother received man's custody. Father died in Ingham County Sanitarium in 1941 of tuberculosis. Stepfather was mean to children and beat defendant occasionally. Stepfather's sanity is questionable. Mother living in Owosso and working in a store. A divorce occurred between the mother and stepfather very recently (about 1946).

State of Michigan
Department of Corrections

ADMISSION SUMMARY

James Crampton	#70740-J
White—22	Sentenced: 4-13-49
Received: 4-20-49	Robbery Armed
Saginaw County	7½ to 25 years

SOURCES OF INFORMATION:

The subject.

Medical and Psychological Reports.

Indeterminate Sentence Record.

PRESENT OFFENSE: OFFICIAL VERSION: Subject, Wellman Bartz, James Lynch, and Don Bartz, about 10:30 P.M., on the 23rd of February, 1948 did rob the Gates Grocery Store at 1891 N. Madison Street in Saginaw, Michigan and took $125.00.

INMATE'S VERSION: Subject admits charge. Claims impulsiveness caused him to commit the crime. He says that the co-defendants were talking about a robbery, influenced him and with a general burst of courage, he committed the crime.

CUSTODIAL: Subject is a second prison offender. He was in considerable trouble as a juvenile and was sent to the State Training School for Boys, St. Charles, Illinois for delinquency. On March 20th, 1946 he was arrested for UDAA in Monroe, Michigan and turned over to New York City Authorities who wanted him for grand larceny. He was sentenced to Elmira Reformatory, Elmira, New York on August 14, 1946 to a 5 year maximum. He was paroled from that institution about three weeks prior to this charge. He left Michigan after this crime and was arrested out west and returned to Corunna, Michigan. He enlisted in

the Navy on 3-31-44 for a 2 year period but on 7-18-44 he received a court martial for larceny and impersonation of a U.S. Naval officer and on 8-25-44 he was given an undesirable discharge. He also enlisted in the U.S. Army on January 3, 1949, in Reno, Nevada under the name of Edsel F. Moore and is now AWOL from Fort Ord, California. He expects a dishonorable discharge for fraudulent entry. While at Elmira Reformatory he claims that he adjusted well.

SOCIAL:

PARENTS: Archie Crampton, died in 1941.
Charlotte Bryer, 44, 108½ N. Washington, Owosso, M.

BROTHER: Jack Crampton, 20, 1420 W. 23rd St., Detroit, M.

BROTHER: Gary Crampton, 19, U.S. Army.

H-BROTHER: Ormond Bryer, 9, Owosso, Mich.

SISTER: Susan Crampton, 16, 2014 W. 23rd St., Detroit.

H-SISTER: Karyl Bryer, 13, 620 N. Water, Owosso, Mich.

H-SISTER: Helen Bryer, 7, R.F.D., Owosso, Mich.

MARITAL: Single

PERSONAL: Subject was born September 18th, 1926 in Owosso, Michigan. His father was a hotel supervisor at Hotel Olds in Lansing, Michigan, was a heavy drinker and caused the separation between the parents in 1933. In 1934 divorce was granted and in 1941 the father died from tuberculosis. Subject boarded out with different families in his early life and in 1934 his mother married Henry Bryer and the subject lived with his mother and stepfather in Willmatte, Illinois about 8 years. Subject remembers family fights when younger, and states that the discipline in the family

home was periodic, strict at times and lax at other times. He left home for good when he was 16. He states, however, that he always got along with his mother. He completed the 11th grade at St. Charles School for Boys in St. Charles, Illinois and received a high school diploma at Elmira Reformatory during his sentence in that institution. He also has some commercial training at Elmira Reformatory. This boy has been a heavy drinker, has had relations with prostitutes and has used benzedrine about 7 months prior to present charge. He enlisted in the Navy in 1944 but was given an undesirable discharge after a period of 5 months. He claims work with forestry service in Reno, Nevada, but has changed jobs frequently after short periods of employment and has had no specialized work. He enlisted in the Army after present offense occurred. At present is AWOL from the Army.

EDUCATIONAL: A.C.R. 11.6 Probation report states that he received a high school diploma at Elmira Reformatory, Elmira, New York. He has had some commercial training at Elmira Reformatory, also had typing, shorthand and bookkeeping.

PSYCHOLOGICAL: I.Q. 127, Revised Army Alpha B. Superior intelligence classification considered valid. Mechanical Knowledge (Superior); Space Relations (Superior); Shop Arithmetic (Average); Total Percentile (Superior); Office Vocabulary (Superior); Office Arithmetic (Superior); Office Checking (Average); Total Percentile (Average); Typing, 32 words per minute. Occupational Titles: *Farm hand—General & Dairy. Hospital Orderly* (Elmira Reformatory).

VOCATIONAL: Subject claims that he did some forestry work in Reno, Nevada, has done some farming, has done general work but has not been very long on jobs. At Elmira Reformatory he was a hospital orderly for quite some time.

MEDICAL: History and examination reveal a history of T.B. in the family. Father died of same in 1941, inmate associated with Father and he had an X-ray 2

years ago which he stated showed a lesion of left apex. Will be given an X-ray here and if negative he may be transferred to Ionia. Able to do common labor. No Kahn report. Not to be transferred until cleared medically.

RELIGIOUS: Subject was baptized and confirmed in the Baptist Church. He attended Sunday School when younger. However he has not attended church in his later years. He believes in God.

INMATE'S PLANS: Subject wishes to be transferred to Ionia and states that upon his release from prison he intends to go into business with his mother, preferably to own a farm. He is interested, if he remains in this institution, in hospital orderly work but would also like to receive vocational training.

PROBLEM: This is a 22 year old white second prison offender who has a long sentence to serve for robbery armed. He comes from a home broken by divorce when he was quite young, has received periodic guidance from his mother but not enough to keep him clear of criminal conduct. He is likeable in appearance, neat appearing but reveals emotional instability. He admits guilt on all his charges and states that he is impulsive. It is believed by this interviewer that his pattern of criminal conduct has been well formed in the past few years. He has been irresponsible, nomadic and unstable in his work. He has superior intelligence and would be more than well placed along a vocational line. In view of his youthful appearance, despite his criminal background, this interviewer believes that he would be best suited in a reformatory program.

RECOMMENDATION: It is recommended that subject be transferred to Ionia Reformatory when cleared medically and when transferred be considered for hospital orderly work supplemented by some vocational training.

/s/ E. L. COLBERT
E. L. COLBERT
Sociologist

ELC:AR
dict: 5-6-49
trans: 5-9-49

State No. 410-1651 Docket No. ———

STATE DEPARTMENT OF CORRECTIONS
BUREAU OF PROBATION
LANSING, MICHIGAN

REPORT OF INVESTIGATION TO COURT

Probation Department Circuit Court

Submitted By Gerald L. Hansen
Morris W. Shaw
Arthur J. Slaggert

Court Name of Defendant
Crampton, James

True Name
Crampton, James Edward

Alias or Nickname
James Edward Bryan/Edsel Moore

To the Hon. James E. O'Neill
Judge Circuit Court
Saginaw, Michigan

Date April 12, 1949

CHARGE: ROBBERY ARMED

Your Honor:

This defendant is a white man, single and twenty two years old. He was born in Owosso, Michigan and was the first of four children. His father was not well and died of tuberculosis in the Ingham County Sanitarium in 1941. Offender's mother received a divorce in 1934 and married Henry Bryer a couple of months later. There were three children born to this marriage and it appears that the stepfather was jealous of the stepchildren and mistreated them. He was described as a psychotic individual with hypomanic features, and idea of grandeur. Defendant's mother divorced Mr. Bryer in 1946 and he is now living in New York City. The economic situation

appears to have been slightly below average and the first application was made for welfare aid in 1943. The mother blames man's getting into trouble when a juvenile on the mistreatment he received from Mr. Bryer. She is presently living in Owosso and supporting the younger children by working in a store as a clerk. Man was given an undesirable discharge from the U.S. Navy on October 25, 1944 after about five months service. Although it could not be verified, he seems to have struck a naval officer. Prison records from Elmira Reformatory, New York show that he was AWOL and impersonated a naval officer. According to information received from army authorities at Fort Ord, California, man enlisted in the U.S. Army on January 3, 1949 under the name of Edsel F. Moore, RA 19342466, Company A, 22nd Infantry. It appears he is AWOL from the army at this time.

The work record is very limited due to the age of offender and his criminal conduct. He worked as a valet for a ventriloquist for a short period of time and was sentenced to Elmira Reformatory for stealing his employer's wallet. He claims to have worked for the U.S. Forestry Service in Reno, Nevada and was in a gambling establishment in that city. He contends he completed the 10th grade and this is verified by his mother. Prison records show he received a score of 113 on an I.Q. test.

The present charge is Robbery Armed. This occurred on February 23, 1948 at the Cates Grocery Store, 1601 N. Madison Street, Saginaw, Michigan. A sum of $125.00 was taken against the will of Maxine and Molly Cates, attendants in the store. Offender is noted in the prosecutor's information as being armed with a .45 calibre Colt automatic. He claims that before the robbery he had taken some benzedrine sticks from an inhaler and drank them in a cup of coffee. He also drank some beer and whiskey. Co-defendants Wellman Bartz and James Lynch stole a 1941 Buick from Owosso which was used in the holdup. Defendant denies having any knowledge of the particular gun used and believes it was a .32 calibre revolver; however co-defendants stated man was the one who got the .45 automatic that night. Man and Wallman

Bartz entered the store. Bartz held the gun and defendant scooped up the money. They abandoned the stolen car in Flint after the holdup. It appears that the men each received between $16-$17.00 as their share. Man got $20.00 as his share. He was returned from the west to Shiawassee County where he escaped from jail on July, 1948. Apprehension was made in March, 1949, upon his return to Owosso for a visit with his mother. At time of his arrest he was wearing an army uniform. For previous criminal record see "Man's Criminal Record" of this investigation. Defendant is a likeable, neat appearing, emotionally unstable, nervous individual with a long record of criminal conduct. He is above average in intelligence (I.Q. 113). He was in considerable trouble as a juvenile and was sent to the State Training School for Boys, St. Charles, Illinois for delinquency. On March 20, 1946 he was arrested for U.D.A.A. in Monroe, Michigan and turned over to New York City authorities, who wanted him for Grand Larceny. He was sentenced to Elmira Reformatory, Elmira, New York on August 14, 1946 to a five year maximum. He was paroled from that institution about three weeks prior to this charge. He left Michigan after this crime and was arrested out west and returned to Corunna, Michigan. He broke out of jail there and is now AWOL from Fort Ord, California, having enlisted under an assumed name. Authorities in Saginaw feel man should receive a prison sentence of at least the length that co-defendants received. The following sentences were passed: Wellman Bartz, 5-25 years; James Lynch, 5-20 years; and Don Bartz, 7-25 years. Man is considered a danger in society and would be an extremely poor probation risk even if the crime were one in which probation could be granted. It is now known as yet if a detainer will be placed on defendant for his violation of parole from Elmira Reformatory. Prison sentence is recommended.

Objectives appearing at this time are as follows:

1. He should be brought to the point where he has respect for property belonging to others.
2. It is apparent he is in need of a medical examination as he believes there is an indication of T.B.
3. There appears justifiable cause for punishment in this case.
4. Maximum custody seems very warranted in this case as he has escaped from confinement and resented supervision in the past.

Respectfully submitted,

/s/ GERALD L. HANSEN
GERALD L. HANSEN
State Probation Officer
Division of Pardons,
Paroles and Probation

/s/ ARTHUR J. SLAGGERT
ARTHUR J. SLAGGERT
Chief Probation Officer
Saginaw County, Michigan

Approved: Morris W. Shaw
Field Supervisor of Probation

GLH:jc

Testimony of Witness Charlotte Williams

(Trial Record, Volume 2, Pages 332-348)

CHARLOTTE WILLIAMS

who, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. CALLAHAN:

Q State your name, please.
A Charlotte Williams.
Q Where do you live?
A Duran, Michigan.
Q What is your address in Duran, Michigan.
A 101 S. Maple.
Q Are you relate to the defendant in this case, James Crampton?
A Yes.
Q What is your relationship?
A I am his mother.
Q Mrs. Williams, would you give us the date of James' birth, please?
A September 18, 1926.
Q Did he live with you after he was born?
A Yes, sir.
Q For how long a time?
A He lived with me until he was, well, there was an interruption when Jim didn't live with me.
Q Until about when did he live with you?
A He lived with me until he was 14 years old.
Q At that time he went some place else?
A His stepfather didn't want him around and Jim had three brothers, two brothers and a sister and at first his stepfather seemed to think a lot of him but when Jim was 14 he became very jealous of Jim and also his brother Jack and he didn't want him around.
Q Was this stepfather the second husband?
A Yes.

Q Your first husband, James father, died?
A Yes.
Q And when Jim was 14, this would be around 1940?
A That's right.
Q Do you know what provoked this jealous attitude on the part of the stepfather?
A No, he told him to go live with his grandparents; my parents who lived in Owosso, Michigan.
Q Did Jim go there?
A Yes, but my father and mother were getting old and they had raised my sister's son since he was ten months old and they didn't feel they were up to it to take him in.
Q How long did Jim remain there?
A Just a few weeks and then I wrote a letter to my oldest sister in California and asked if he could come out there, so he went to my sister's.
Q Where in California was this?
A I think my sister lived in Los Angeles and he was there just a short time and come back.
Q How long was he in California?
A I think three or four weeks.
Q And you say he came back?
A Yes.
Q He came back to where?
A He came back to our home.
Q And your home at that time was where?
A It has been such a long time; we were living in Kenilworth, Illinois.
Q When Jim came back, did he remain with you?
A Yes, he entered school, but he seemed very disturbed.
Q Just tell us what he did. He remained with you?
A Yes.
Q Did he go to school at that point?
A Yes.
Q Which school did he go to, Highschool, primary school, junior high?
A He went to junior high.

Q And he had completed his studies in the primary grades, had he?

A Yes.

Q What type of student was Jim?

A Jim was a very good student.

Q What kind of grades did he bring home?

A He got all A's and B's.

Q Did he complete high school, the junior high school?

A No, Jim went to New Treer High School, one year his freshman year.

Q Where is New Treer?

A In New Treer Township and we lived in Winetta. We had moved again.

Q Are you still living with the stepfather?

A No, he is dead.

Q Were you married at the time he was going to New Treer High School?

A Yes.

Q This would be your third husband, is that right?

A No, my second husband.

Q Excuse me, and Jim completed one year of high school?

A Yes, and then he dropped out because he didn't have the proper clothes; his stepfather was ill, had a nervous breakdown and he just didn't go to school.

Q What did he do after he left school?

A I think Jim got into some trouble. I don't remember all the details but I know his stepfather said he had gone down town. We lived in the suburbs and Jim had taken a purse or something out of somebody's car and so anyway, he had reported it and they put him in Winebego Farm in Illinois.

Q How long did he remain there?

A I don't remember. I think he was there over a year.

Q And then after he left there, where did he go, Mrs. Williams?

A I can't remember everything. I had three younger children and so much happened. I haven't gone over that part of my life and rehashed it, so I try to forget the

things that are unpleasant. I think we were living in Winetta when Jim came because he enlisted in the Navy.

Q How old would he be at this time?

A Jim was about 17.

Q And this was after he had been released from this Winnebego farm?

A Yes.

Q And he was living with you and your husband at this time?

A Yes, he came home and his stepfather signed for him and I signed for him and he went in the Navy.

Q How long was he in the Navy?

A I don't remember.

Q Was he discharged from the Navy?

A Yes.

Q Do you know whether or not it was an honorable discharge?

A I don't think so.

Q After he was discharged from the Navy did he return to living with you?

A I know he came home but I just don't remember how long he stayed or where he went after that, I just don't remember.

Q Did he, to your knowledge, get any additional schooling beyond the high school?

A Yes, he completed his high school education while he was in the Jackson Prison.

Q When was he in Jackson prison?

A I think Jim was 19 years old so that would be 1945.

Q Do you know what he was in Jackson prison for?

A Yes, he went with three other boys and they went to Saginaw in this boy's car and one of the boys had a pistol. I don't know if it was a toy pistol or not but they were in a grocery store and the story I got—I didn't get to go to the trial at the time because I was ill, that Jim was supposed to be in the back seat of the car asleep.

Q This was the charge he went to Jackson for?

A For being a look out.

Q How long was he in Jackson?

A The judge gave him 10 to 15 years and Jim was there until I think 1955.

Q When he was released in 1955, where were you living then?

A It couldn't be 1955. It is so hard for me to remember all the dates and everything. I just don't remember.

Q I understand. Was Jim living with you after he was released from Jackson?

A Yes, in 1959; meantime Jim had to go to—Jackson released him and sent him to New York. Jim had been to New York meantime. I don't remember the dates and he was working for a man by the name of Paul Winchell.

Q What was he doing?

A Jim was his valet.

Q Do you know what other jobs Jim might have had?

A No, that was the only one I know of.

Q Would you tell what diseases or ailments Jim had while he was a child living with you?

A He had whooping cough, measles, chicken pox.

Q The usual childhood diseases?

A Yes and then he had a fever, but they didn't diagnose it, they thought he had undulant fever.

Q Did Jim suffer any injuries while he was a youth living with you?

A Yes, when we lived in Wilment, in 1935, in the summer Jim got on an ice wagon and at that time we had refrigerators where the ice man would come along and fill your refrigerator and Jim got on the ice truck to snatch a piece of ice and our ice man didn't know he was on there and drove off and came to a road called Ridge and instead of Jim staying on the truck when he got around the corner, he jumped off onto the pavement and fell and when Jim came home his head was all mashed, just the side of it.

Q Did you examine the cut?

A Yes, and his stepfather said he would take him to the doctor that night when he came home. So he took Jim and brought him back and he said he didn't think it was anything serious. Afterwards Jim said he didn't take him to the doctor.

Q Your memory is somewhat hazy, but you seemed to remember this incident, why do you remember this incident?

A Because I was very worried about it at the time and he came to the house and one of the neighbors said not to let him go to sleep to keep him awake and I remember we gave him ice water and he complained of headaches for a short time after that.

Q Jim was nine years old at that time?

A Yes, he was.

A Yes.

Q After Jim was released from Jackson, did you say he lived with you?

A When he came from New York, Jim lived with me when I lived in Toledo, and I was on private duty at the time?

Q You are what?

A A nurse and Jim came and I gave him a home but I noticed he was not like other people. He was very nervous and highstrung but he was my son and I felt I should do what I could for him and while he was with me, he met his first wife.

Q Who was his first wife?

A Sandra Wing.

Q When did he marry her?

A I think it was June 13, 1959.

Q Were any children born of this marriage?

A Yes a son Kevin.

Q How old is Kevin?

A He is nine.

Q How long did this marriage last?

A Well, it lasted I think about a year.

Q Do you know whether or not Jim was employed during that time?

A Yes.

Q Where was he working?

A Jim was working at Flower Hospital and then he quit to do some kind of roofing work where he could make more money.

Q And you say this marriage lasted about a year and only one child was born?

A Yes.

Q Where did Jim and Sandra live, if you know?

A They lived in Point Place. I don't know the name of the street.

Q Here in Toledo?

A Yes.

Q After Jim was divorced, did he live with you?

A Jim lived with me for a few weeks but he called her on the phone and she was calling my phone and keeping me awake all night and I had to work and it went on and on this commotion and he was upset and he just couldn't seem to get ahold of himself, so she had him arrested for threatening her life and finally she had him pcked up for threatening her and had him put back in prison.

Q Do you know whether or not Jim was taking any drugs or amphetamines at this time?

A Well, I wouldn't know what he was taking but I am sure he was taking something.

Q How would you know?

A Well, when a person has no control over their emotions and when a person lies down and goes into a deep sleep and don't wake up for hours at a time—I don't know too much about drugs. I am not qualified, I am not a doctor, but I think I would recognize a person that was under the influence of it as much as I would if they were drinking liquor or intoxicants.

Q What symptoms did Jim display to you that he was taking drugs?

A I couldn't reason with him.

Q Did you attempt to?

A Yes, I did.

Q About what?

A One thing, not to call his ex-wife. They were divorced then but they remarried later.

Q When did they remarry?

A In 1964.

Q How long did this second marriage last?

A I was living in Charleston, West Virginia then. That lasted until, I think about December of 1964 because I came from Charlotte, West Virginia to spend Christmas with him.

Q So it was approximately nine months?

A Yes.

Q Then he was divorced from her again?

A Yes, I think she went through divorce proceedings.

Q After this second divorce, do you know where Jim lived; did he live with you?

A No, I went to my son's and daughter in Owosso and they came and got me because things were not right there and they were both drinking and so I called my son in Owosso to come and get me. Then Jim took off in his car and got as far as Indiana. So she told me and called me to the phone. All I had was her word.

Q Whose?

A Sandra, his first wife, and he went to Trier, Indiana and rented a car and took off headed west and I think he got as far as Kansas and they arrested him for stealing this rented car. He had taken it over the state line without permission. Then they put him in Leavenworth for stealing a car.

Q How long was he there?

A I don't know, I think until—I am sorry, I can't remember everything. I think it was September, 1966.

Q Did he return to Toledo after he was released from Leavenworth?

A No, when he was working at Flower Hospital, he had met Wilma and his second wife, she had written me that she was very fond of Jim and wanted to know about Jim and Sandra, and at the time I couldn't go down and see her in person so we talked over the telephone and by letter and I wrote and levelled with her and told her the truth.

Q Was she married to Jim at the time?

A No, she was talking about marrying and I advised against it and she seemed quite perturbed that being his mother, I shouldn't have said what I did, but it was the truth and she shouldn't have married him.

Q But she did marry him?

A Yes.

Q Did you ever meet Wilma?

A I never met her in person.

Q Did you have conversation with her?

A Several times by phone.

Q In these conversations you had with Wilma, what did she tell you about Jim?

A She thought she could help Jim with his problem. I told her he had been accused of indulging in narcotics and in, no not drinking, and I explained to her as much as I knew and I told her I thought she should wait until he got a job and worked and proved himself. I said to wait about a year and she said she thought she could really bring Jim out of whatever trouble he was having and she thought maybe she is the person that could do it.

Q Approximately how many conversations did you have with her, Mrs. Williams?

A We wrote back and forth and we talked on the phone approximately once a week, whether I called her or she called me and she went to see Jim. She flew out there to Leavenworth and wanted me to go too, but I was on a case and couldn't get a relief nurse so I couldn't go.

Q Do you know when they were married?

A I think it was September 23 or 26th. I am not quite sure, 1966.

Q A little over a year ago?

A Yes.

Thereupon, letters were marked as Defendant's Exhibits E and F.

Q Mrs. Williams, As you recall, yesterday afternoon we were discussing the telephone conversations and correspondence you had with Wilma while she was James' wife. I hand you what has been marked for purposes of identification as Defendant's Exhibit E. Would you tell us what that is, please, if you know?

A You mean this letter?

Q Yes.

A It is a letter that I received from Wilma. I think it was the first of December.

Q Of last year?

A Yes.

Q Is that letter in that envelope?

A Yes, it is.

Q Would you take it out, please and is that letter addressed to you?

A Yes, it is.
Q How does it begin?
MR. RESNICK: Objection.
THE COURT: Sustained.
Q How is that letter signed?
A Love, Wilma.
Q Is there a date on that letter?
A Yes.
Q Would you tell the jury what Wilma told you in that letter?
MR. RESNICK: Objection.
THE COURT: Sustained.
Q Mrs. Williams, I hand you what has been marked for purposes of identification, Defendant's Exhibit F. Would you tell the court and jury what that is, please?
A It is a letter from Wilma.
Q What is the date on that letter?
A January 12th, 1967.
Q How is that letter signed?
A Love, Wilma.
Q Would you tell the jury what is in that letter, please?
MR. RESNICK: Objection.
THE COURT: Sustained.
Q In the course of your telephone conversation with Wilma, did she express concern for Jim's welfare while he was in the hospital?
MR. RESNICK: Objection.
THE COURT: Sustained. The question is leading.
Q Will you tell the jury what Wilma told you in the telephone conversation you had with her?
A When?
Q In the month of January, 1967 while Jim was missing?
MR. RESNICK: Objection.
THE COURT: Sustained.
Q Did you ever testify at any other trials of your son, Jim, Mrs. Williams?
A No.
Q This is the first time you have been on the witness stand?

A Yes.

MR. CALLAHAN: I have no further questions.

CROSS EXAMINATION

By MR. RESNICK:

Q Do you know, Mrs. Williams, how long your son has been on amphetamines or any type of narcotic?

A Yes, I can tell you when Jim was committed to Jackson prison, I think it was in 1949.

Q And he has been using various types of drugs since, is that correct?

A Yes, he was using them in Jackson and it was available as I understand it and Jim had some trouble with a lung and he had the upper left part of his lung removed and that is when he continued to use it.

Q Do you know if at any other trials, as Mr. Callahan asked you, the defense of insanity was used before?

A No.

INSTRUCTIONS TO THE JURY

Given October 30, 1967

IN THE COURT OF COMMON PLEAS
OF LUCAS COUNTY, OHIO

Case No. 44585

STATE OF OHIO, PLAINTIFF

vs.

JAMES EDWARD CRAMPTON, alias JAMES BRYER,
alias EDSEL FRITZ MOORE, DEFENDANT

THE COURT: Ladies and gentlemen of the jury: You have heard the evidence and the arguments of counsel. It is now the duty of the Court to instruct you on the law which applies to this case. The Court and jury have separate functions. You decide the disputed facts and the court provides the instructions of law. It is your special sworn duty to accept these instructions and to apply the law given to you without change.

A criminal case begins with the filing of an indictment. The indictment is the instrument used to inform the defendant that he has been charged with a crime. The fact that it was filed may not be considered as evidence for any purpose. The plea of not guilty is a denial of the charge and puts in issue all of the essential elements of the crime charged in the indictment and of any lesser included offense.

In addition, the defendant had filed a written plea of not guilty by reason of insanity which raises the issue of insanity at the time of the alleged commission of the crime charged. This is an affirmative defense, which the court will explain later in these instructions.

Defendant is presumed innocent until, and if, his guilt is established beyond a reasonable doubt. The defendant must be acquitted unless the state produces evidence which convinces you beyond a reasonable doubt of every

essential element of the crime charged in the indictment, or of any lesser offense included within that charge.

Reasonable doubt is not a mere possible doubt, because everything relating to human affairs or depending upon moral evidence is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves your minds in the condition that you cannot say you feel an abiding conviction to a moral certainty of the truth of the charge.

What is the evidence? Evidence is all the testimony received from the witnesses, the exhibits admitted during the trial and any facts agreed to by counsel.

Evidence may be either direct or circumstantial or both.

Direct evidence is the testimony given by a witness who has seen or heard the facts to which he testifies. It includes exhibits admitted into evidence during the trial.

Evidence may also be used to prove a fact by inference. This is referred to as circumstantial evidence. Circumstantial evidence is the proof of facts or circumstances by direct evidence from which you may infer other related or connected facts which are reasonable and justified in the light of your experience.

Circumstantial evidence alone will not justify a finding of guilty unless the circumstances are entirely consistent with the defendant's guilt, wholly inconsistent with any reasonable theory of the defendant's innocence, and are so convincing as to exclude a reasonable doubt of the defendant's guilt.

The evidence does not include the indictment, the opening statements and closing arguments of counsel. It does not include answers to questions and statements of counsel that you have been instructed to disregard.

You must not speculate as to why the court sustained the objection to any question, or what the answer to such question might have been. You must not draw any inference or speculate on the truth of any suggestion included in such a question which was not answered.

As previously instructed, your view of the premises is not evidence but was for the purpose to help you under-

stand what you heard in the courtroom, that is, the testimony of the witnesses and the exhibits.

You are the sole judges of the facts, the credibility of the witnesses and the weight of the evidence. To weigh the evidence, you must consider the credibility of each witness. You will apply the tests of truthfulness which you apply in your daily lives.

These tests include the appearance of each witness upon the stand; his manner of testifying; the reasonableness of the testimony; the opportunity he had to see, hear and know the things concerning which he testified; his accuracy of memory; frankness or lack of it; intelligence, interest and bias, if any; together with all the facts and circumstances surrounding the testimony. Applying these tests, you will assign to the testimony of each witness such weight as you deem proper.

You are not required to believe the testimony of any witness simply because he or she was under oath. You may believe or disbelieve all or any part of the testimony of any witness. It is your province to determine what testimony is worthy of belief and what testimony is not worthy of belief.

Generally a witness may not express an opinion. However, a person who had an opportunity to observe is permitted to express an opinion as to sanity. In determining the value of such opinion, you will consider the opportunity that such witness had to observe the facts and his knowledge of and experience on the subject. In addition, you will apply the usual rules for testing credibility and determining the weight to be given to such testimony.

One who follows a profession may express his opinion because of his education, knowledge and experience. Such testimony is admitted for whatever assistance it may provide to help you to arrive at a just verdict.

Questions were asked in which an expert witness was permitted to assume that certain facts were true and to give an opinion based upon such assumption. You must determine whether the assumed facts, upon which the expert based his opinion, are true. If any assumed fact was not established by a greater weight of the evidence, you will determine the effect of that failure upon the value of the opinion of the expert.

As with other witnesses, upon you alone rests the duty of deciding what weight should be given to the testimony of an expert. In determining its weight, you may take into consideration his skill, experience, knowledge, veracity, familiarity with the facts of this case, and the usual rules for testing credibility and determining the weight to be given to the testimony.

The indictment accuses the defendant of the crime of murder in the first degree.

In this instruction, the court will be giving you now the elements of the crime of murder in the first degree and also the lesser included offenses of murder in the second degree and manslaughter.

The court will then give you the definitions of the terms used in these and the other issues which his plea of not guilty and not guilty by reason of insanity raise.

It is impossible for the court to give you all of these things in proper order perhaps, but whether or not you use all of the law that the court gives to you depends upon the finding that you make, but the court is under duty to provide you with all the law you might possibly need, regardless of what your finding on any issue may be.

Murder in the first degree is the killing of another purposely and with deliberate and premeditated malice. Before you can find the defendant guilty of murder in the first degree, you must find beyond a reasonable doubt:

First: That Wilma Jean Crampton was a living person and that she was killed by the defendant in Lucas County, Ohio, on or about the 17th day of January, 1967;

Second: That the killing was done purposely, and

Third: That the killing was done with deliberate and premeditated malice.

Purpose is a decision of the mind to knowingly do an act with a conscious objective to produce a specific result. To do an act purposely is to do it intentionally and not accidentally. Purpose and intent mean the same thing. The purpose or design with which a person does an act is usually known only to himself unless he expresses it to others or indicates it by his conduct.

The purpose with which a person does an act or brings about a result is determined from the manner in which it is done, the means or weapon used and all the other facts and circumstances in evidence.

If a wound is inflicted upon a person with a deadly weapon in a manner calculated to destroy life, the intent or purpose to kill may be, and I stress the word *may* be inferred from the use of the weapon.

We will be defining the other issues raised by the plea of not guilty and the definitions I will give you now are so that you will know the legal meaning of these words.

Motive—Proof of motive is not required. The presence or absence of motive is one of the circumstances bearing upon intent or knowledge. Where an act is a crime, a good motive or purpose is not a defense.

We said it had to be done purposely and with deliberate and premeditated malice, so I will define malice to you. Malice exists when the defendant purposely engages in unlawful conduct and consciously produces injury to another.

Ill will or hostility against the person of another are not required. The existence of malice is determined from the manner in which the act is done, the weapon used, and from all the other facts and circumstances in the evidence.

Where one intentionally shoots another with a deadly weapon in a manner likely to cause death, you may infer that the act was done maliciously.

Unlawful means contrary to law.

Deliberate and premeditated—to constitute murder in the first degree, the malice which I have just defined to you must be both deliberate and premeditated. Deliberation means that the act was not the result of a sudden impulse; that some thought an consideration was given by the defendant before arriving at the purpose or intent to kill. Premeditation means that this thought process was used and that the purpose to kill was turned over in the defendant's mind and a decision to kill made prior to the commission of the act. There is no definite period of time that must elapse for the formation of the pur-

pose to kill. The test is not the duration of time, but the existence of the reflection.

The law requires that the mind be sufficiently composed to reflect upon the killing and to understand the nature and character of the act and its consequences. If you find that the defendant actually formed the purpose to maliciously kill, and deliberated and premeditated upon it before he performed the act, that is sufficient for this element of the crime.

If you find that the state failed to prove any one of the essential elements of the crime of murder in the first degree, you must find the defendant not guilty of murder in the first degree and you will proceed with your deliberation and decide whether the state has proved beyond a reasonable doubt all the elements of the lesser crime of murder in the second degree.

The crime of murder in the second degree is distinguished from murder in the first degree by the absence or failure to prove deliberate and premeditated malice.

To constitute murder in the second degree, there must be a killing of another; there must be a definite purpose or intent, as I have defined purpose to you, actually made and existing in the mind of the defendant at the time of the act to kill Wilma Jean Crampton, and in addition, the killing must be done maliciously as I have defined the term malice to you.

If you find that the state failed to prove any one of the essential elements of the crime of murder in the second degree, you must find the defendant not guilty of murder in the first degree, not guilty of murder in the second degree and proceed with your deliberation and decide whether the state has proved beyond a reasonable doubt all the essential elements of the lesser crime of manslaughter in the first degree.

To constitute manslaughter in the first degree, the killing of another must be done unlawfully, that is, that the killing of Wilma Jean Crampton by this defendant was done unlawfully. If one person kills another, and no circumstances of excuse or justification are shown, the law presumes that the killing was unlawful.

An unlawful killing may be either voluntary or involuntary.

Voluntary manslaughter is the intentional killing of another while in sudden passion or hot blood, caused by reasonable and adequate provocation, without malice and without time for reflection. Provocation is adequate if it produces a degree of rage, anger, or resentment in an ordinarily reasonable person, sufficient to render the mind incapable of reflection. Provocation is not adequate if it is slight and if it does not disturb the mind and prevent reflection. The provocation must exist at the time of or shortly before the act which caused death. Provocation is not adequate if sufficient time elapsed between the provocation and the killing to permit the anger, rage, or resentment of an ordinarily reasonable person to cool and to permit reason to resume control.

When a person is killed intentionally, but while under the influence of sudden passion or hot blood, produced by an adequate and reasonable provocation, and before a reasonable time elapsed for the blood to cool and reason to resume control, and the killing is the result of such provocation, rather than of malice, it is an unlawful killing within the definition of manslaughter in the first degree.

The second kind of manslaughter in the first degree is involuntary manslaughter.

Involuntary manslaughter is the unintentional killing of another while committing an unlawful act which is the proximate cause of the death.

It is a crime and therefore unlawful to assault another with a dangerous weapon. The essential elements of this unlawful act are that the defendant threatened, in a menacing manner, the person of Wilma Jean Crampton, with a dangerous weapon, with intent to produce death or great bodily harm.

Proximate cause is defined as an act or omission which in a natural and continuous sequence directly produces the result and without which it would not have occurred. Proximate cause exists when the death is the natural and probable result of the act.

If you find that the state has failed to prove beyond a reasonable doubt, any one of the essential elements of the crime of manslaughter in the first degree, then your verdict must be not guilty.

As I told you before, if the evidence warrants it, you may find the defendant guilty of a crime lesser than that charged in the indictment, however, notwithstanding this right, it is your duty to accept the law as given to you by the court, and if the facts and the law warrant a conviction of the crime charged in the indictment, that is, murder in the first degree, then it is your duty to make such finding uninfluenced by your power to find a lesser offense.

This provision is not designed to relieve you from the performance of an unpleasant duty. It is included to prevent failure of justice if the evidence fails to prove the original charge but does justify a verdict for the lesser crime.

You have noted that purpose, deliberate and premeditated malice, are essential elements of first degree murder, purpose and malice essential elements of second degree murder, intent an essential element of voluntary manslaughter and intent to commit a crime an essential element of involuntary manslaughter. The burden is on the state to prove all of the essential elements of these crimes beyond a reasonable doubt.

In this connection, the evidence raises the issue that by the reason of the uses of drugs, that the mind of the accused was in such condition that he was mentally incapable of forming any intention to commit the crime of murder in the first degree or any of the lesser included offenses.

In determining whether the defendant was influenced by the effect of drugs to such an extent that his mind could not and did not form an intent or purpose to commit a crime, you will consider the testimony of the condition of the defendant and every other fact and circumstance shown in the evidence bearing upon the question of the degree of the effects of drugs on the defendant at the time in question.

If you find by a preponderance of the evidence that the defendant was so influenced by the use of drugs at the time that he was mentally incapable of forming an intent or purpose to commit a crime, then you must find the defendant not guilty, as intent to commit a crime is an essential element of the crime charged in the indictment and also of each of the lesser included offenses.

There is some evidence that the result was accidental. An accidental result is one that occurs unintentionally and without any mental purpose or decision to bring it about. An accident is a mere physical happening or event, out of the usual order of things and not reasonably anticipated as a natural or probable result of a lawful act.

If after considering all the evidence, including that on the subject of accident, you are not convinced beyond a reasonable doubt that the defendant intended to bring about the death of Wilma Jean Crampton, you must return a verdict of not guilty.

If you find that the state failed to prove beyond a reasonable doubt that the defendant did the act as charged in the indictment and the act of any lesser included offense, as I have defined the essential elements to you, you must find the defendant not guilty. Such a finding of not guilty would complete your duties and you would return a verdict of not guilty. However, if you find that the state proved beyond a reasonable doubt that the defendant did commit the act as charged in the indictment or any lesser included offense, you must proceed to determine whether the defendant was insane at the time the act was committed.

The plea of not guilty by reason of insanity raises the issue of the insanity of the defendant at the time of the alleged commission of the crime. The test of insanity is this:

Was the mind of the defendant deranged or diseased from some cause to such an extent that the particular act was not intentional but rather the product of a deranged or diseased mind? And, if the act was the product of a deranged or diseased mind, was the defendant's mental capacity so impaired that he did not recognize the

nature and quality of the act he was doing or that he did not know that it was wrong to commit it? Stated another way, was the mind of the defendant deranged or diseased from some cause to such an extent that he was not a free agent in forming the intent or purpose to maliciously commit the criminal act or to such an extent that he lacked the mental ability to choose the rigth and reject the wrong in relation to that act. You may also consider whether he knew or was capable of knowing that such act was contrary to the laws of God and of man. A person who knows and recognizes the difference between right and wrong in respect to the particular act with which he is charged and who has the ability to choose the right and reject the wrong is legally sane.

Insanity may be of short or of long duration. The test for insanity remains the same irrespective of its duration. Whether a form of temporary insanity exists in this case is a question of fact for you to determine.

Voluntary use of drugs, no matter how extreme, is not an insane condition. However, derangement or disease of the mind caused by the use of drugs and resulting in insanity, as previously defined, is a defense to a crime.

An act committed under the stress of strong emotion, rage or passion, however violent and apparently uncontrollable, is not a defense for crime in a person not otherwise insane as defined in these instructions.

The law presumes that every man is sane. This presumption is the equivalent of proof of the defendant's sanity until you find by a preponderance of the evidence that the defendant was insane at the time of the commission of the act charged in the indictment or any lesser included offense.

Preponderance of the evidence is the greater weight of the evidence; that is, evidence that you believe because it outweighs or overbalances in your minds the evidence opposed to it.

A preponderance means evidence that is more probable, more persuasive, or of greater probative value. It is the quality of the evidence that must be weighed. Quality

may or may not be identical with the greater number of witnesses.

In determining whether or not an issue has been proved by a preponderance of the evidence, you should consider all the evidence bearing upon that issue regardless of who produced it.

If the weight of the evidence is equally balanced, or if you are unable to determine which side of an issue has the preponderance, then the defendant has not established such issue by a preponderance of the evidence.

If the defendant fails to establish such defense, the burden of proof remains upon the state to prove all the elements of the crime charged or any lesser included offense by proof beyond a reasonable doubt.

If you find beyond a reasonable doubt that the defendant did commit the act charged and if you further find that the defendant established by a preponderance of the evidence that he was insane at the time the act was committed, your verdict must be not guilty by reason of insanity. However, if you find that the defendant failed to establish by a preponderance of the evidence that he was insane at the time and if you further find that the state proved beyond a reasonable doubt all the essential elements of the crime of murder in the first degree, or of any of the lesser offenses on which I have instructed you, your verdict must be guilty of such crime, according to your findings.

If you find the defendant guilty of murder in the first degree, the punishment is death, unless you recommend mercy, in which event the punishment is imprisonment in the penitentiary during life.

You will have with you the following forms of verdict. No inference is to be drawn from the order in which the court reads the verdicts. One of these verdicts will be applicable to whatever finding you may arrive at in this case.

The first one says, omitting the formal part, for verdict find and say that we find defendant guilty of murder in the first degree as charged in the indictment, and if that is the verdict of all twelve, you have another line

which you must fill in. We—blank—recommend mercy and you will put in that line, we do, or, we do not, according to your finding.

The second: We find defendant not guilty by reason of insanity.

Third: And again, I am not reading these in any order—We find defendant not guilty of murder in the first degree as charged in the indictment, and not guilty of the lesser included offense of murder in the second degree, but guilty of the lesser included offense of manslaughter in the first degree.

Fourth: We find the defendant not guilty of murder in the first degree as charged in the indictment, but guilty of the lesser included offense of murder in the second degree.

And on all of these you have October—blank, 1967. You also insert the date you make your finding and today the date is the 30th of October.

Fifth: We find the defendant not guilty as charged in the indictment.

When you have reached a verdict, you will complete the form which corresponds to your decision. All members of the jury must agree before there is a verdict and all members of the jury must sign the verdict in ink.

You have no right to discuss or consider the subject of punishment if your verdict is manslaughter in the first degree or murder in the second degree. On those two charges, your duty is confined in the determination of the guilt or innocence of the defendant. In the event you find the defendant guilty, the duty to determine the punishment is placed, by law, upon the court.

You must not be influenced by any consideration of sympathy or prejudice. It is your duty to carefully weigh the evidence, to decide all disputed questions of fact, to apply the instructions of the court to your findings and to render your verdict accordingly. In fulfilling your duty, your efforts must be to arrive at a just verdict.

Consider all the evidence and make your finding with intelligence and impartiality, and without bias, sympathy,

or prejudice, so that the State of Ohio and the defendant will feel that their case was fairly and impartially tried. If, during the course of the trial, the court said or did anything which you consider an indication of the court's view on the facts, you are instructed to disregard it.

Your initial conduct upon entering the jury room is a matter of importance. It is not wise immediately to express a determination to insist upon a certain verdict because if your sense of pride is aroused, you may hesitate to change your position even if you decide you are wrong.

Consult with one another, consider each other's views and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of you must decide this case for yourself, but you should do so only after a discussion and consideration of the case with your fellow jurors. Do not hesitate to change an opinion if it is wrong. However, you should not surrender honest convictions in order to be congenial or to reach a verdict solely because of the opinion of other jurors.

I will ask all the twelve members of the panel whether or not they are physically able to proceed to the deliberation in this case. Hearing no answer, the thirteenth juror who was selected to serve in the event of any misfortune to a member of the panel, and such contingency has not arisen, therefore it will not be necessary for you to serve further. You are not to discuss this case or tell anyone how you would have voted until after the jury has returned a verdict. You will be excused and the court certainly appreciates your attendance on the case.

On behalf of the public and the parties, the court expresses appreciation for your services in performing this important public function.

After your verdict is returned, you may discuss this case with anyone, but you are not required to do so. Whether you discuss this case with counsel, or anyone else after you are discharged is a matter of your own free choice.

The Court will place in your possession the exhibits and the verdict forms. The foreman or forelady will

retain possession of these records, including the verdict, and return them to the court room. Until your verdict is announced in open court, you are not to disclose to anyone else the status of your deliberation or the nature of your verdict.

I also want to caution the jury once more to decide this case on the evidence and the law as they heard it in the court room and not be influenced by anything they have seen or heard on T.V. in the way of fiction plays, things of that kind. You have taken your oath to decide this case upon the evidence and the law as presented to you here. That is your responsibility now.

Also, a tape is included in the exhibits and if you wish, in the course of your deliberation, to hear the tape again, you may write a question to that effect, knock on the door and the bailiff will see that the tape is properly set in the tape recorder for you to play it because that is something that a person has to know how to operate it. She will not remain with you while you play it, but she will set it up for you in working order.

Anything further from counsel?

MR. RESNICK: Nothing further.

MR. CALLAHAN: Nothing further.

THE COURT: I have an additional instruction to give the jurors and that is, after you retire, first select a foreman or forelady so that your deliberation may be conducted in an orderly manner. When all twelve of you agree on a verdict, then you select the form which corresponds with your verdict and all twelve jurors must sign the verdict in ink.

It will take a few minutes to get the exhibits together, but you may now retire and don't talk about the case until all the exhibits have gone into the jury room.

JUDGMENT OF THE COURT OF COMMON PLEAS
OF LUCAS COUNTY, OHIO

Filed November 16, 1967

IN THE COURT OF COMMON PLEAS
OF LUCAS COUNTY, OHIO

No. 44585

STATE OF OHIO

vs.

JAMES EDWARD CRAMPTON

JOURNAL ENTRY

On March 13, 1967, defendant, James Edward Crampton, was in open court without counsel. Stenographer was ordered. It appearing to the court that said defendant is in indigent circumstances and unable to employ counsel to defend him in this action, it was ordered that John Manton and Gerald Lubitsky be appointed as counsel for James Edward Crampton in this cause. A transcript of these proceedings was ordered made an official part of the record herein and ordered taxed as costs.

On April 3, 1967, defendant, James Edward Crampton, was in open court with his counsel Gerald Lubitsky. A letter was received from attorney John Manton, requesting that he be permitted to withdraw as counsel for defendant because of a possible conflict of interests. Permission was granted. Defendant filed a request for Bill of Particulars and motion for examination of medical records at Toledo State Hospital. The prosecutor was given two weeks to file a Bill of Particulars. The motion for examination of medical records was set for hearing on April 10, 1967.

On April 10, 1967, defendant, James Edward Crampton, was in open court with his counsel, John Callahan and Gerald Lubitsky. Assistant Prosecutor Mel Resnick

was present. Stenographer was ordered. Motion for examination of medical records at Toledo State Hospital was heard and motion was granted.

On April 11, 1967 the Bill of Particulars was filed.

On April 24, 1967, defendant, James Edward Crampton, was in open court with counsel, John Callahan and Gerald Lubitsky. Stenographer was ordered. Defendant acknowledged receipt of the Bill of Particulars and the indictment and asked that arraignment be deferred for the reason that defendant's counsel suggest to the court that the defendant is not now sane and requested the court to inquire into the present sanity of the defendant. Whereupon, the court began an inquiry into the present sanity of the defendant and certain statements were made by counsel. The cause was continued one week to permit defendant to secure a certificate of a reputable physician in accordance with Sec. 2945.37 of the Revised Code. Arraignment was deferred until completion of inquiry by the court into the present sanity of the defendant.

On April 27, 1967, a motion was filed by defendant to deliver James Edward Crampton for psychiatric examination.

On April 27, 1967, defendant James Edward Crampton, was in court with his counsel, Gerald Lubitsky. Assistant Prosecutor Melvin Resnick was present on behalf of the State of Ohio. Stenographer was ordered. Defendant moved the court for permission for a private psychiatrist to examine defendant as to his present sanity. The motion was granted. The Sheriff of Lucas County was ordered to convey the defendant to the office of Dr. Simon Dorfman, 1841 Ottawa Drive, Toledo, Ohio, on May 1st, 1967 at 3:00 P.M.

On May 24, 1967, Defendant, James Edward Crampton, was in open court with his counsel, John Callahan and Gerald Lubitsky. The court continued to inquire into the present sanity or insanity of the defendant. Counsel made certain statements. Defendant's Exhibit A was admitted into evidence by consent. The court found upon the evidence and the law that the defendant is presently sane. Whereupon, the defendant, James Edward Cramp-

ton, filed with the court a written plea of not guilty and a written plea of not guilty by reason of insanity to the charge made in the indictment. It was ordered that the defendant be committed to the Lima State Hospital for observation for a period not to exceed one month in accordance with Section 2945.40 of the Revised Code.

On June 30, 1967 the psychiatric report was filed.

On July 18, 1967, the defendant and his counsel were served with a copy of the psychiatric report.

On July 18, 1967, the defendant, James Edward Crampton, was in open court with his counsel John Callahan and Gerald Lubitsky. Assistant Prosecutor Resnick was present. The report from Lima State Hospital reported that the defendant would be considered sane. Whereupon defendant requested no further hearing be had on the report of Lima State Hospital. Defendant's counsel filed a motion to take deposition of examining doctor at Lima State Hospital and the motion was granted. The cause was set for trial by jury on October 23, 1967 at 9:00 A.M. It was further ordered that on September 15, 1967 at 10:30 A.M. in open court, with defendant present, that the Clerk draw from the jury wheel according to law, 75 ballots and issue to the Sheriff of Lucas County a venire for the persons whose names are so drawn to appear on October 23, 1967 at 9:00 A.M. to serve as jurors in the trial of this cause.

On July 19, 1967 an application to take depositions was filed by defendant and the application was granted.

On July 25, 1967, it was ordered that a Commission be granted to Vernon Nelson, Court Reporter, to take the deposition of Alexander Chomyn, M.D. at Lima State Hospital on August 8, 1967.

On Sepgember 15, 1967, in open court at 10:30 A.M. in the presence of the defendant, James Edward Crampton, and his counsel, John Callahan and Gerald Lubitsky, deputy clerk, Bary Radbone, drew from the jury wheel 75 ballots which names were listed in open court by deputy clerk, Virginia Plantz, in the presence of Jury Commissioner, John McHugh, Deputy Sheriff, Eleanor Hiller, and Assistant Prosecutor, Alice Robie. The Clerk was ordered to issue a venire to the Sheriff for the per-

sons whose names were so drawn to appear on October 23, 1967 at 9:00 A.M. to serve as jurors in this cause and the Sheriff was ordered to make his return of service at least 15 days before that date. It was further ordered that the Clerk serve a copy of the venire and the return thereof on the defendant at least three days before the trial date.

On October 6, 1967, application to take depositions was filed by defendant and granted.

On October 23, 1967, defendant, James Edward Crampton was in court with counsel, John Callahan and Gerald Lubitsky. Assistant Prosecutors Melvin Resnick and Alice Robie were present on behalf of the State of Ohio. Stenographer was ordered. Empaneling of jury was begun. At 4:30 P.M. under proper instruction of the court, night recess was had and the court adjourned at 9:00 A.M. on October 24, 1967.

On October 24, 1967, defendant, James Edward Crampton, was in court with counsel, John Callahan and Gerald Lubitsky. Assistant Prosecutors Melvin Resnick and Alice Robie were present on behalf of the State of Ohio. Stenographer was ordered. Empaneling of jury was resumed and the jury and alternate juror were sworn. Under proper instruction of the court, the jury went to view the premises; whereupon night recess was had and court adjourned to 9:00 A.M. on October 25, 1967.

On October 25, 1967, defendant James Edward Crampton, was in court with counsel, John Callahan and Gerald Lubitsky. Assistant Prosecutor Melvin Resnick and Alice Robie were present on behalf of the State of Ohio. Stenographer was ordered. Trial was begun and at 4:30 P.M. under proper caution for the court, trial was recessed to October 25, 1967 at 9:00 A.M.

On October 26, 1967, defendant, James Edward Crampton, was in open court with counsel, John Callahan and Gerald Lubitsky. Assistant Prosecutors Melvin Resnick and Alice Robie were present on behalf of the State of Ohio. Stenographer was ordered. The trial was resumed and at 4:30 P.M. under proper caution of the court, trial was recessed to October 27, 1967 at 9:00 A.M.

On October 27, 1967, defendant, James Edward Crampton, was in open court with counsel, John Callahan and Gerald Lubitsky. Assistamt Prosecutors Melvin Resnick and Alice Robie were present on behalf of the State of Ohio. Stenographer was ordered. The trial was resumed and at 12:00 o'clock noom, under proper instruction of the court, trial was recessed to October 30, 1967, at 9:00 A.M.

On October 30, 1967, defendant, James Edward Crampton, was in open court with his counsel, John Callahan and Gerald Lubitsky. Assistant Prosecutors Melvin Resnick and Alice Robie were present on behalf of The State of Ohio. Stenographer was ordered. Trial was concluded and the cause was submitted to the jury at 2:00 P.M. At 6:15 P.M. the jury in open court in the presence of defendant and his counsel, returned a verdict finding defendant guilty of murder in the first degree as charged in the indictment, with no recommendation of mercy. Counsel having nothing further to say, the verdict was accepted by the court and ordered filed and spread upon the minutes of the court.

A transcript of these proceedings was ordered made an official part of the record herein and ordered taxed as costs.

On November 2, 1967 a motion for new trial was filed.

On November 15, 1967, defendant James Edward Crampton was in court with counsel, John Callahan and Gerald Lubitsky. Assistant Prosecutor Mel Resnick was present on behalf of the State of Ohio. Stenographer was ordered. Motion for new trial was heard and overruled.

Whereupon the court informed said defendant that the jury trying his case had returned a verdict finding him guilty of murder in the first degree with no recommendation of mercy, for violation of Section 2901.01 Revised Code, as defendant then present well knew.

Whereupon, the court inquired of the defendant if he has anything to say as to why judgment and sentence should not be pronounced. Defendant made certain statements. Defendant did not show sufficient cause as to why sentence should not be pronounced.

It is the sentence of the court that the jury having withheld the recommendation of mercy, defendant, James Edward Crampton, is sentenced to death in the electric chair in accordance with law. The date of execution of the sentence is set for March 13, 1968.

It is further ordered that within 30 days from November 15, 1967, the Sheriff of Lucas County shall convey defendant, James Edward Crampton, in a private and secure manner to the Ohio Penitentiary, where he shall be received by the warden and safely kept there until the 13th day of March, 1968, when the death penalty will be executed in accordance with Sec. 2949.22 Ohio Revised Code for violation of Sec. 2901.01 Revised Code as charged in the indictment.

It is further ordered that defendant shall pay costs of prosecution, including cost of assigned counsel and of provided transcripts, and that execution is awarded therefor.

It is further ordered that the writ for the execution of the death penalty as heretofore pronounced against defendant shall be issued to the Sheriff of Lucas County, Ohio, carrying said sentence and judgment into execution and the Warden of the Ohio Penitentiary make a return of these proceedings under and by virtue of said writ to the Clerk of this Court, who shall record said warrant and the the return thereon in the records of this cause.

A transcript of these proceedings was ordered made an official part of the record in this case and ordered taxed as costs.

GERALDINE MACELWANE
Judge

JUDGMENT OF THE SIXTH DISTRICT COURT OF APPEALS

Filed May 29, 1968

IN THE SIXTH APPELLATE
DISTRICT COURT OF APPEALS
LUCAS COUNTY, OHIO

C. A. No. 6398
C. P. No. 44585

THE STATE OF OHIO, PLAINTIFF-APPELLEE

—*vs*—

JAMES E. CRAMPTON, DEFENDANT-APPELLANT

JOURNAL ENTRY

This cause came on for hearing upon the appeal on questions of law, assignments of error, bill of exceptions, the transcripts and pleadings from the Court of Common Pleas of Lucas County, Ohio, and upon a motion for reconsideration in light of Witherspoon vs. Illinois, 36 Law Week, 4504, decided by the United States Supreme Court subsequent to the finding of this court on the direct appeal. After arguments of counsel upon the appeal and upon the motion for reconsideration of said appeal in light of Witherspoon vs. Illinois, 36 Law Week, 4505, and after full consideration thereof the court finds from the record that all assignments of error of the appellant are not well taken or non-prejudicial.

Upon the motion for reconsideration the court finds that Witherspoon vs. Illinois, 26 Law Week, 4504, involves a statute and facts dissimilar from the statute of the Ohio Revised Code, Section 2945.25 (c) and from the facts in this case and is, therefore, inapplicable. The motion for reconsideration heretofore filed by appellant is denied.

The court further finds that upon appeal to this court, the date of execution of the defendant set by the trial

court was suspended by this court during the pending of this appeal. Said date of execution having now passed, a new execution date should be appointed pursuant to the provisions of the Ohio Revised Code, Section 2953.07.

It is, therefore, ORDERED, ADJUDGED and DECREED that assignments of error of the defendant are hereby overruled and judgment of the trial court is hereby denied.

It is, therefore, ORDERED, ADJUDGED and DECREED that the motion for reconsideration hereto filed is not well taken and hereby overruled.

It is further ORDERED, ADJUDGED AND DECREED that the execution of the defendant shall take place on the 15th day of October, 1968, at 10:00 P.M., and that the Clerk of the Common Pleas Court of Lucas County, Ohio, is hereby ordered to issue a warrant under the seal of the Court to the warden of the Ohio State Penitentiary commanding him to carry the sentence into execution on the date herein appointed.

To all of which the defendant hereby excepts.

DUDLEY F. SMITH
Judge

HARVEY G. STRAUB
Judge

CLIFFORD F. BROWN
Judge

JUDGMENT OF THE SUPREME COURT OF OHIO

Filed June 11, 1969

THE SUPREME COURT
OF THE STATE OF OHIO

No. 68-533

THE STATE OF OHIO, PLAINTIFF-APPELLEE

vs.

JAMES EDWARD CRAMPTON, DEFENDANT-APPELLANT

APPEAL FROM THE COURT OF APPEALS
FOR LUCAS COUNTY

This cause, here on appeal from the Court of Appeals for Lucas County, was heard in the manner prescribed by law. On consideration thereof, the judgment of the Court of Appeals is affirmed; for the reasons set forth in the opinion rendered herein, and it appearing to the Court that the date heretofore fixed for the execution of the judgment and sentence of the Court of Common Pleas is now past, this Court proceeding as required by law does hereby fix the 25th day of July, 1969, as the date for carrying said sentence into execution by the Warden of the Ohio Penitentiary, or in his absence by the Deputy Warden, in accordance with the statutes in such case made and provided.

It is further ordered that a certified copy of this entry and a warrant under the seal of this Court be duly certified to the Warden of the Ohio Penitentiary and the Warden make due return thereof to the Clerk of the Court of Common Pleas of Lucas County, and it appearing that there were reasonable grounds for this appeal, it is ordered that no penalty be assessed herein.

It is further ordered that the appellee recover from the appellant its costs herein expended; that a mandate be sent to the Common Pleas Court to carry this judgment into execution; and that a copy of this entry be certified to the Clerk of the Court of Appeals for Lucas County for entry.

OPINION OF THE SUPREME COURT OF OHIO

Filed June 11, 1969

THE SUPREME COURT
OF THE STATE OF OHIO

No. 68-533

THE STATE OF OHIO, PLAINTIFF-APPELLEE

vs.

JAMES EDWARD CRAMPTON, DEFENDANT-APPELLANT

OPINION

Syllabus

1. A person accused of murder in the first degree is not denied his constitutional right to a fair trial where veniremen are excused for cause from serving as jurors because their opinions preclude them from finding the accused guilty of an offense punishable with death (*Witherspoon* v. *Illinois*, 391 U.S. 510; *Boulden* v. *Holman*, 22 L. Ed. 2d 433; and *State* v. *Pruett*, 18 Ohio St. 2d 167, followed.)

2. It is not error to sustain an objection to a hypothetical question calling for an answer based upon an improper test for legal insanity. (*State* v. *Staten*, 18 Ohio St. 2d 13, approved and followed.)

3. An accused is not deprived of his constitutional rights against self-incrimination by a procedure under which the jury, which determines an accused to be guilty of first degree murder, is authorized to determine whether mercy should be recommended so that the penalty should not be death.

4. The punishment of death for the crime of murder in the first degree, where the jury does not recommend mercy, does not violate the constitutional prohibition against cruel and unusual punishments.

5. The punishment of death for first degree murder,

where the jury does not recommend mercy, does not deprive a person of due process or equal protection of the laws.

Opinion

TAFT, C.J. Defendant's first contention is that a person accused of murder in the first degree is denied his constitutional right to a fair trial when veniremen are excused for cause from serving as jurors because their opinions preclude them from finding the accused guilty of an offense punishable with death.

Our decision in *State* v. *Pruett* (1969), 18 Ohio St. 2d 167, and the reasons stated in the opinions in *Witherspoon* v. *Illinois* (1968), 391 U.S. 510, 20 L. Ed. 2d 433, 88 S. Ct. 1770; *Boulden* v. *Holman* (1969), 394 U.S. 478, 22 L. Ed. 2d 433 and *State* v. *Pruett, supra,* require us to reject this contention.*

Defendant further complains about the charge of the court with respect to insanity.

It may be noted that the state also objected to this charge. Apparently, this charge on insanity was substantially the same as the charge given on that subject in *State* v. *Keaton* (1967), 9 Ohio App. 2d 139, 223 N. E. 2d 631, with the addition at the end thereof of the substance of what is stated in paragraph fifteen of the syllabus of *State* v. *Frohner* (1948), 150 Ohio St. 53, 80 N. E. 2d 868, and in paragraph four of the syllabus of *State* v. *Stewart,* 176 Ohio St. 156, 198 N. E. 2d 439, both of which syllabi paragraphs were followed in paragraph one of the syllabus of *State* v. *Staten* (1969), 18 Ohio St. 2d 13. As the opinion in the *Keaton case* recognized, and as we recognized in footnote 5 of *State* v.

* In the instant case, 33 jurors were examined on voir dire. Of these, 29 were interrogated as to their opinions on capital punishment. Admittedly four of the 29 stated positively that their opinions *would preclude them from finding the accused guilty of an offense punishable with death,* and those four were excused when challenged for cause by the prosecutor. No other juror was excused on a challange for cause because of his opinions with respect to capital punishment.

Staten, supra, the charge in the *Keaton case* was too favorable to the accused. In our opinion, therefore, the defendant in the instant case could not have been prejudiced by the charge given on insanity.

Defendant also complains because the court sustained objections to certain hypothetical questions propounded to a Doctor Neverauskas.

On November 4, 1966 this doctor had been assigned as staff physician for defendant, who had been previously admitted because of his drug addiction to Toledo State Hospital on an order of detention of the Probate Court of Lucas County.

This doctor testified as to his examination of defendant, his admitting diagnosis and the treatment prescribed for defendant at the hospital.

Defendant's counsel propounded to this doctor a hypothetical question with respect to defendant, premised upon evidence theretofore presented, and then asked the doctor's opinion as to whether or not the mind of the defendant was "deranged or diseased to such an extent that the alleged criminal act was the product of defendant's deranged or diseased mind."

Two of the grounds for objection to this question were (1) that the witness had not been qualified as an expert, and (2) that the question was not based upon the proper testing for determining legal insanity.

It may reasonably be inferred from the record that the trial court sustained the objection on the first ground.

It is not necessary for us to consider whether the objection was properly sustained on that ground. Even if we assume that the witness had been properly qualified as an expert, it is obvious that the question and the proffered affirmative answer are based upon the so-called Durham test for legal insanity (See *Durham* v. *United States* [C.A.D.C. 1954], 214 F. 2d 1862), which test was rejected by this court in *State* v. *Staten, supra* (18 Ohio St. 2d 13). Hence, there was no error in sustaining the objection to that question.

Thereafter, other hypothetical questions were asked of Doctor Neverauskas, and his answers were proffered. We disregard the fact that the proffered answers were not

responsive to the questions. To the extent that those answers *might* support defendant's insanity defense under the law of this state, those answers were to the effect that, because of defendant's excessive use of drugs (i.e., amphetomines), defendant was unable to restrain himself from doing what he knew he was doing and from what he knew was wrong.

However, this doctor had already testified that, if this defendant (who had been his patient) excessively used such drugs, he would be unable to so restrain himself.

Hence, we are of the opinion that defendant was not prejudiced by the refusal of the trial court to permit Doctor Neverauskas to answer those hypothetical questions.

This conclusion is fortified by the fact that another expert called by defendant testified as Doctor Neverauskas would have testified in answer to those hypothetical questions.

Thus, we conclude that, where an expert witness has testified that excessive use of certain drugs would prevent an accused who had recently been his patient from restraining himself from doing a criminal act, it is not prejudicial error to sustain an objection to a hypothetical question calling for the opinion of the same witness as to whether such use would prevent the accused from restraining himself from doing that same act.

Defendant next contends that Section 2901.01, Revised Code, providing that anyone "guilty of murder in the first degree * * * shall be punished by death unless the jury trying the accused recommends mercy," is unconstitutional.

In so contending, defendant argues that this statute compels a person "to be a witness against himself" within the meaning of those words as used in Section 10, Article I of the Ohio Constitution, and the Fifth Amendment to the Constitution of the United States.

Defendant argues that, if an accused elects to assert his right against self-incrimination, he can not present any evidence which would tend to mitigate on the question of his punishment.

This is obviously not true. Defendant can, as he did in the instant case, present such testimony by witnesses other than himself.

Thus, defendant's contention is reduced to one that, if he elects to assert his right against self-incrimination, he, himself, can not testify on the question as to whether the jury should recommend mercy; and that if he decided to testify on that question, he exposes himself to cross-examination by the state as to his guilt; and he thereby is compelled to be a witness against himself contrary to the Fifth Amendment to the United States Constitution. In other words, defendant contends that, in effect, he is required by Section 2901.01, Revised Code, to incur the detriment and thereby pay the price of waiving his right against self-incrimination on the issue of his guilt in order to testify on the issue as to his punishment.

This is an ingenious argument.

However a similar argument could be made (1) where a defendant claims an alibi and desires to testify in support of that claim, (2) where a defendant claims self-defense and desires to testify in support of that claim, and (3) where a defendant contends that he is at most guilty of a lesser included offense and desires to testify in support of that contention.

In our opinion, there is no reasonable basis for concluding that an accused is deprived of his Fifth Amendment right against self-incrimination by a procedure under which the jury, which determines an accused to be guilty of first degree murder, is authorized to determine whether mercy should be recommended so that the penalty should not be death.

Defendant contends that the punishment of death by electrocution for the crime of murder in the first degree, where the jury does not recommend mercy, violates the constitutional prohibition against cruel and unusual punishments.

It is not argued that the penalty of death by electrocution is any more cruel or unusual than death by the historical methods of hanging or shooting. Thus, defendant's contention must amount to one that the punishment of death for the crime of first degree murder violates the

constitutional prohibition against cruel and unusual punishments.

The crime of first degree murder is the most serious crime in this state and, in the instant case, required a finding by the jury, beyond a reasonable doubt, of an intentional killing with deliberate and premeditated malice. If any crime will support the death penalty, this crime will.

In our opinion, defendant's contention is completely answered by the provisions of the Fifth Amendment, which refer to "a capital * * * crime" and which mention being "twice put in jeopardy of life" and being "deprived of life * * * without due process," as well as by the provisions of the Fourteenth Amendment against "any state" depriving "any person of life * * * without due process."

It is further contended that the punishment of death for first degree murder where the jury does not recommend mercy deprives a person of due process and equal protection of the law.

It seems to us that it would be just as logical to argue that an accused convicted of any crime is denied due process and equal protection of the law because the Governor may, without any standards to guide him, pardon some other accused who has been convicted of the same crime.

In our opinion, there is no merit to this contention. *In re Anderson* (Cal. 1968), 447 P. 2d 117, *Petition of Ernst* (C.P. 3, 1961), 294 F. 2d 556, certiorari denied, 368 U.S. 917.

For the foregoing reasons, the judgment of the Court of Appeals is affirmed.

Judgment Affirmed

MATTHIAS, SCHNEIDER, HERBERT and DUNCAN, JJ., concur.

SUPREME COURT OF THE UNITED STATES

No. 709 Misc., October Term, 1969

JAMES EDWARD CRAMPTON, PETITIONER

v.

OHIO

On petition for writ of Certiorari to the Supreme Court of the State of Ohio.

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted limited to Questions 2 and 3 presented by the petition which read as follows:

> "2. Whether the Ohio statute which provides that the trier of fact shall determine both guilt and punishment in a single verdict in cases of murder in the first degree violates petitioner's right to be free from self-incrimination.
>
> "3. Whether the Ohio statute which provides that the trier of fact may grant or withhold a recommendation of mercy in cases of murder in the first degree, and which provides no standards or criteria to assist the trier of fact in making such determination, violates petitioner's right to due process and equal protection of the law."

The case is transferred to the appellate docket as No. 1633 and placed on the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Marshall took no part in the consideration or decision of this motion and petition.

June 1, 1970

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